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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

11-CR-424 (NRB)

5 GULAY CIBIK, REFAEL BRODJIK,
6 a/k/a "Rafi," NATHAN SCHWARTZ,
7 HAROLD TISCHLER, a/k/a
"Hershy,"

8 Defendants.

Jury Trial

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9
10 New York, N.Y.
February 1, 2013
11 9:09 a.m.

12 Before:

13 HON. NAOMI REICE BUCHWALD,

14 District Judge

15 APPEARANCES

16 PREET BHARARA

17 United States Attorney for the
Southern District of New York

18 JANIS ECHENBERG

JAMES J. PASTORE, JR.

19 Assistant United States Attorneys

MICHAEL DINET, Paralegal Specialist

20 DONALDSON CHILLIEST LLP

21 Attorneys for Defendant Gulay Cibik

22 BY: XAVIER R. DONALDSON, ESQ.

LAWRENCE D. GERZOG, ESQ.

23 JEREMY L. GUTMAN, ESQ.

24 Attorneys for Defendant Refeal Brodjik

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APPEARANCES
(Continued)

BRILL LEGAL GROUP, P.C.

Attorneys for Defendant Nathan Schwartz

BY: PETER E. BRILL, ESQ.

PAUL GREENFIELD, ESQ.

Attorney for Defendant Harold Tischler

ALSO PRESENT: DEIDRE GORDON, Special Agent, Homeland Security
RYAN GIBBS, Special Agent, U.S. Dept. of Labor

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1 (Trial resumed)

2 (Jury not present)

3 THE COURT: Okay. I guess we're all here and ready to
4 go.

5 MR. BRILL: Judge, if I could make a very brief
6 record. I forgot to yesterday.

7 I have had extensive discussions with Mr. Schwartz, my
8 client, about his ability and right to testify in this case,
9 and after those extensive discussions, he has declined to do
10 so.

11 MR. DONALDSON: It's probably appropriate for me to
12 make that representation as well. Regarding Ms. Cibik, I spoke
13 to her as well a couple times over the course of the last few
14 weeks, over the course of the last few months, actually, about
15 her testifying. She has explained to me that she does not wish
16 to do that, so I'll put that on the record as well.

17 MR. GREENFIELD: On behalf of Mr. Tischler, we've had
18 extensive conversations regarding, A, his right to testify,
19 whether or not he should or wants to, and we have concluded and
20 he has concluded that he will not testify.

21 MR. GERZOG: Do you want me to say it? I'll say it.
22 I never do. I spoke --

23 THE COURT: It's up to you, sir.

24 MR. GERZOG: Okay, then I won't.

25 As far as resting, shouldn't we all rest in front of

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1 the jury?

2 THE COURT: Okay.

3 MR. GERZOG: And we renew our Rule 29 motion post
4 defense case.

5 THE COURT: Okay.

6 MR. GERZOG: I assume the same result.

7 THE COURT: Right. You guess correctly.

8 MR. PASTORE: Your Honor, one last thing. Pursuant to
9 the conversations last evening with defense counsel for
10 Brodjik, we're not going to be arguing the taxes issue, and
11 we're not going to be arguing the detention as a false
12 statement. So those two issues can, I think, be put to rest.

13 THE COURT: Okay.

14 MR. GERZOG: Thank you.

15 THE COURT: Okay.

16 (Continued on next page)

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1 (Jury present)

2 THE COURT: Good morning, everyone.

3 All right. I don't think we officially closed the
4 testimony yesterday, so.

5 MR. PASTORE: The United States rests.

6 THE COURT: In named order.

7 MR. DONALDSON: For Ms. Cibik, we rest, as well,
8 without putting on any witnesses.

9 MR. GERZOG: Mr. Brodjik rests.

10 MR. BRILL: Mr. Schwartz rests.

11 MR. GREENFIELD: Defendant Harold Tischler rests, your
12 Honor.

13 THE COURT: All right. So here's the sequence of
14 summations. First the government sums up. Then defense
15 counsel.

16 And I don't know if you've agreed on the order?

17 MR. GERZOG: I believe it's going to be Donaldson,
18 Greenfield, Brill, Gerzog.

19 THE COURT: So that's the order that the defendants
20 agreed on. And then following defendants' summations, the
21 government has the opportunity for what we call a rebuttal
22 summation.

23 Realistically, here's what I expect. Expect the
24 government to sum up this morning. Then probably your break.
25 And then we will hear at least two, hopefully three defense

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1 summations this afternoon. Pick up Monday with the last
2 defense summation and then the government's rebuttal and then
3 the charge, which I give.

4 Okay. Mr. Pastore.

5 MR. PASTORE: Thank you, your Honor. Your Honor, may
6 I reposition the easel?

7 Just a few blocks from here for more than a decade,
8 the law offices of Earl David churned out thousands upon
9 thousands of phony and fraudulent documents as part of a
10 massive immigration fraud scheme that was designed to enrich
11 Earl David and his criminal associates. Criminal associates
12 like Gulay Cibik, who met with clients at the firm, directed
13 them how to lie to the federal government and how to prepare
14 the phony applications that ultimately were submitted.
15 Criminal associates like Refeal Brodjik, who night after night
16 went to each employee of the firm, collected money, pocketed a
17 cut for himself, and transmitted that money to Earl David, who
18 had by that time fled to Canada.

19 To accomplish their fraud, the employees of the Earl
20 David law firm relied on a network of fraudsters who willingly
21 lied in exchange for money, people like Nathan Schwartz and
22 Harold Tischler, who were paid to lie over and over again and
23 say that they were willing to hire more than 300 aliens, who
24 provided their phone numbers so that the Department of Labor
25 could call and confirm the sponsorships, and he received mail

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Summation - Mr. Pastore

1 and delivered those critical blue labor certifications to the
2 law firm so that the fraud could continue.

3 In ways large and small, each of these four defendants
4 played critical roles to ensure that the fraud could continue,
5 and each of those defendants is guilty beyond any reasonable
6 doubt.

7 Ladies and gentlemen, I want to walk through some of
8 the evidence this morning that shows how each of these
9 defendants is guilty as charged. But before I do that, I want
10 to say a few brief words about what the charges are in this
11 case. Now, Judge Buchwald is going to instruct you on the law,
12 and I expect what she's going to instruct you is that each of
13 the four defendants is charged with conspiring to commit
14 immigration fraud and submit false statements and with a
15 substantive count of immigration fraud.

16 So with respect to the first count, what I think, what
17 I believe Judge Buchwald is going to instruct you is that the
18 essence of the first charge, the conspiracy, is the agreement
19 to commit the crime. It's not the actual commission of the
20 crime; it's the agreement that is the crime. The second charge
21 is the substantive count. And Judge Buchwald I believe is
22 going to instruct you that in addition to actually making false
23 statements, if you aid and abet or willfully cause another
24 person to make those false statements, then you can, then you
25 are guilty just as someone who makes the false statements,

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1 signed off on the false statements themselves.

2 There's also a charge against Refeal Brodjik for his
3 own false statements in a naturalization application. That's
4 Count Four of the indictment.

5 So Judge Buchwald will explain in detail the charges,
6 but I just wanted to frame them as we go through the evidence
7 this morning.

8 I want to start first with the sponsor defendants, the
9 folks who were part of the network that provided critical
10 support services to the law firm. Without sponsors like Harold
11 Tischler and Nathan Schwartz, the fraud could never have gotten
12 off the ground because they're the ones who started the very
13 first step. They're the ones who brought those blue labor
14 certifications in so that the blue labor certifications could
15 actually be submitted to the immigration authorities.

16 Now, as you know, in order to generate blue pieces of
17 paper like these, like 1209-5, there's an application that has
18 to be submitted to the Department of Labor. And if we could
19 just bring up 1209-5, I want to walk through with you some of
20 the false statements that are contained in these blue labor
21 certifications. I want to show you how you know that these
22 statements are false. And keep in mind that these blue labor
23 certifications that you see in evidence, and you're going to
24 have them in the jury room, they were taken from the A files,
25 from the alien files. So what does that tell you? It tells

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1 you that not only were these generated by the Department of
2 Labor, but they actually wind up going to immigration. So keep
3 that in mind because the lies contained in this form are then
4 transmitted to the immigration department.

5 And you heard from Faith Campbell, the very first
6 witness -- I know at this point it was a few weeks ago, but the
7 very first witness -- that the immigration looks for these
8 forms. They rely on these forms to certify that certain things
9 have been done by the Department of Labor. Among other things,
10 that the employer is actually ready, willing, and able to hire
11 the employees as they certify.

12 Let's take a look at 1209-5, and I want to go right to
13 the back page of the labor certification form, which is page 9
14 of ten. And if you look at the certification and it's going to
15 come up on your screen, it's part N. It's employer
16 declaration. Now, as a general matter, the entire form is
17 false, right. There is no actual job offer. You've heard that
18 over and over and over again. But there are specific
19 declarations that each employer has to make and you can see
20 them on your screen.

21 By virtue of my signature here below, I hereby certify
22 the following conditions of employment: One, the offered wage
23 equals or exceeds the prevailing wage and I will pay at least
24 the prevailing wage. Two, the wage is not based on
25 commissions, bonuses or other incentives unless I guarantee a

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1 wage paid on a weekly, biweekly, or monthly basis, etc. Three,
2 I have enough funds to pay the wage or salary offered the
3 alien. Four, I will be able to place the alien on the payroll
4 on or before the date of the alien's proposed entrance into the
5 United States.

6 Let's jump down to eight. The job opportunity has
7 been and is clearly open to any U.S. worker. Nine, the U.S.
8 workers who apply for the job opportunity were rejected for
9 lawful job related reasons. I want you to keep that one in
10 mind because that relates to the advertisement that we're going
11 to look through, the resumes that you heard discussed. And
12 then finally, ten, the job opportunity is for full time, full
13 time permanent employee for an employer other than the alien.
14 In other words, a real employee as opposed to a self-employed
15 position.

16 And then underneath that there is a signature and
17 above the signature in this case, above Nathan Schwartz's
18 signature, it says, I declare under penalty of perjury that I
19 have read and reviewed this application and that to the best of
20 my knowledge the information contained herein is true and
21 accurate. And then it goes on to explain that to knowingly
22 furnish false information is a crime. This relates to one of
23 the substantive elements that the judge is going to instruct
24 you about that the false statement has to be made knowingly and
25 has to be made to a government agency in the course of

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1 performing their duties. So there you have that pretty
2 technical element. Okay.

3 So let's go through this form in some more detail and
4 look at part C, which I think is page 3 of this form. Okay.
5 If you look at part C of this form, you'll see there's some
6 employer information contained in there. We've been dealing
7 with one of the Nathan Schwartz employer forms. I want to
8 actually switch over now 1342-2 and show you that there is
9 similar information provided for Harold Tischler's company. So
10 if we switch over to 1342-2 and take a look at page 3, you'll
11 see that it's essentially similar types of information that's
12 required, but instead of Nathan Schwartz' company, it's a
13 Harold Tischler company.

14 Okay. Let's go through, first of all, the home
15 address of Mr. Tischler appears on this form. It is 4316
16 17th Avenue. There's no dispute that's the defendant's home
17 address. There's a stipulation that is his home address and
18 that's stipulation S-9. So now let's look at the number of
19 employees on this form. It says 20. You know that's false.
20 How do you know that's false? Well, if you take a stipulation
21 S-5, which is in evidence, you're going to see that a search
22 was performed for New York State tax records relating to
23 withholding wages. And you're going to see that there were no
24 such records from 2003 through the third quarter of 2002 for
25 that company 5318 16th Avenue. There's no wages recorded at

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1 all.

2 Now, Harold Tischler knows, and it's on the screen.
3 So if we can flip back to it. I'm sorry, I apologize. If I
4 said 2002, it goes through 2012. As you can see, if we can
5 then go on to the next page, you see 5318 16th Avenue LLC. So
6 there were no tax records for this company.

7 Now, Harold Tischler knows how to file taxes when he's
8 actually employing workers, and you know that from several
9 pieces of evidence. You know that from Government's 206, which
10 are some tax records relating to one of Mr. Tischler's
11 companies. And you'll see that he reports that there are in
12 fact employees. And if we zoom in, you'll see that as is for
13 Vintage Builders and General and it's cut off, but Vintage
14 Builders and General Contractors. So Mr. Tischler knows how to
15 file taxes when he's actually hiring employees. And you heard
16 from several defense witnesses, actually, that he withheld
17 taxes for Vintage. So he clearly knows how to do it.

18 Now, I want to say a few words about the witnesses
19 that you heard from who were called on behalf of Mr. Tischler.
20 And before I do, let me make it clear the defendant has no
21 burden here. The burden is always on the government, always to
22 prove our case beyond a reasonable doubt. The defendant has no
23 burden or responsibility to produce any evidence or say
24 anything to you in a defense case. But when arguments are
25 made, you can evaluate those arguments. What did those

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1 witnesses tell you about this case? Not very much. There's
2 not a single witness who even heard of Fix Anything
3 Construction and Plumbing, of 387 Quincy, of 5318 16th Avenue
4 Enterprises, all of those companies that Mr. Tischler used to
5 sponsor aliens in exchange for cash. You didn't hear any
6 testimony from any of those witnesses about that.

7 You didn't hear any testimony from any of those
8 witnesses that Mr. Tischler sponsored them for a green card.
9 The one person who needed sponsorship went -- was brought to
10 Earl David's law office, apparently met with Sam Salamon, but
11 Mr. Tischler did not sponsor that individual.

12 I submit, ladies and gentlemen, that what those
13 witnesses told you was really irrelevant to the question in
14 this case which is did Mr. Tischler participate in a conspiracy
15 and did he aid and abet in presenting false information to the
16 Department of Labor and to the immigration authorities in
17 connection with the companies that you saw applications for,
18 the companies that come back to his home address over and over
19 and over again, the companies that have his own phone number
20 attached to them. That's what's relevant.

21 Okay. So if we go back to 1342-2, we can see that
22 this claim of 20 employees is just flat out false. In
23 addition, there are other false statements in this application.
24 Part E you'll see is left blank, right. It indicates that the
25 employer himself prepared this application. Sam Salamon told

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1 you why they began leaving part E blank, because they didn't
2 want all of the Department of Labor forms to trace back to the
3 law firm. They were afraid it was going to raise red flags.

4 Now, if we go to part G, you'll see there's a wage
5 offer there and it says Mr. Tischler is prepared to pay this
6 worker, Franklin Maldonado, a wage of \$21.01 per hour. Simply
7 not true. Mr. Tischler had no ability to pay a worker that
8 amount of money. There were no workers reported for 5318
9 16th Avenue Enterprises. And, in fact, if you look at
10 Mr. Tischler's own tax return, which is in evidence as 226,
11 you'll see that Mr. Tischler reports that he earned income from
12 5318 16th Avenue Enterprises and all he earned was about \$4,000
13 for that entire year. And you'll see that he himself, if we
14 can scroll a few pages in, keep going to the schedule E, and if
15 you zoom in, you'll see right there, 5318 16th Avenue
16 Enterprises, and he's reported about \$3,700 in rents received
17 from that address. So that's the sum total of the money being
18 generated by that company. And he himself, Mr. Tischler,
19 reports about \$19,000 on this tax return as his income.

20 So he has no ability to pay a worker \$21 an hour. In
21 fact, if you look at Government's 225, you'll see that's a tax
22 record showing that the company, 5318 16th Avenue Enterprises,
23 they didn't file any tax returns for the relevant years. This
24 company is a paper company, ladies and gentlemen. It doesn't
25 have the ability to pay a worker \$21 an hour.

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1 So, again, we come back to 1342-2. Again, we go
2 through and we look at the next section that also contains
3 false statements, the job duties section, and that's Section H.
4 The job duties are fictitious. You know that the job duties
5 are fictitious because the jobs didn't in fact exist. And you
6 saw 3104-2 which was a client file and you saw that there was a
7 fake, essentially, job experience letter. 3104-2. You
8 remember this was in a client file and it was one of those fake
9 form letters saying that someone performed these particular
10 duties. You know that was made up.

11 And if you look at 3104-1, and you'll have the hard
12 copy in the jury room, but what you'll see for 3104-1 is that
13 it's one of these intake forms and you'll see that where it
14 says alien, that information that's in black ink, and you can
15 see from what's on your screen that that's in one handwriting.
16 And you know why, because the aliens would come in and that
17 would be filled out and then occupation would be left blank and
18 you can see on your screens that's different handwriting. Why?
19 Because these aliens weren't coming in and saying I have a job,
20 this is what I do, here's my job. No. They said I want a
21 sponsor, provide me one, and then they would be assigned a job
22 later on. The whole thing was phony. So carpenter is written
23 in blue ink, you can see it's different handwriting. The job
24 gets assigned later. So there are no job duties because
25 there's no job. So that too is false in this application.

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1 All right. I want to turn now back to 1342-2, and if
2 we can continue going through 1342-2. And you'll see that the
3 next set of false statements in this document relates to the
4 advertising of the job. And if we can bring up the recruitment
5 section, okay. Down at the bottom of the page, you see that
6 this purportedly an ad was run in the New York Daily News. And
7 you know that sometimes job advertisements were in fact run;
8 you've seen evidence of that. You've seen the tear sheets.
9 You've heard the witnesses testify about the tear sheets being
10 submitted.

11 You also know when people send in resumes they would
12 throw them in the garbage. When real people who were looking
13 for real work and responded to the advertisements that were put
14 up for those phony companies, they sent their resumes in hoping
15 to get a job, and the resumes were tossed in the garbage.

16 You also saw 3036-4, which was one of these letters
17 created responding to the Department of Labor's request saying
18 hey, we got resumes, why didn't you interview these folks for a
19 job. What does Earl David write? It says please be advised we
20 didn't receive any resumes. We'll readvertise, but we didn't
21 receive any resumes. And you know that's not true. In fact,
22 you know later on in the PERM process that some of these
23 advertisements weren't even placed. So that too is another
24 false statement contained on these blue labor certifications
25 submitted over and over again in Nathan Schwartz's name and

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1 Harold Tischler's name.

2 Let's go to Part K, the work experience. Now, you
3 know that the work experience, the work experience in the labor
4 certification was also falsified. You know that the work
5 experience was falsified from several different ways, right.
6 You saw some of the fake experience letters and you saw that
7 some of them had the same template and it was very clear they
8 had all been created from the same computer. But you also
9 heard that people were instructed by Gulay Cibik, among others,
10 to go out and get fake experience letters. You remember the
11 testimony of Ilhan Altintas. He got the fake experience
12 letters he got them from relatives in Turkey. Those too were
13 submitted to the immigration department and the experience was
14 made to match up with what was contained in the labor
15 certification. So that too was false.

16 In fact, if you look at 3024, which is a document
17 seized from defendant Refeal Brodjik's house, you'll see
18 another one of these fake form letters designed to help people
19 prepare the phony experience letters. Here you go. This was
20 one of the documents that was seized from Mr. Brodjik's
21 residence and, again, it's one of those fake experience
22 letters. He performed the following duties and
23 responsibilities, sincerely, unsigned.

24 What else is false about the labor certification?
25 Going back for a minute to that document. You'll see that part

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1 M asks was the application prepared by the employer over and
2 over again. You know that's not true. Simply put, these blue
3 labor certifications were full of lies. And these lies enable
4 the fraud. They were successful and you know they were
5 successful because the labor certification actually issued.
6 You see it over and over again, it makes its way into the alien
7 files. That's where these were pulled from. So you know that
8 was successful.

9 Now, Harold Tischler didn't provide just a single
10 company's information to be used in the fraud. It wasn't just
11 5318 16th Avenue Enterprises. No, he provided multiple
12 companies to be used in connection with the fraud. And you've
13 seen on this cart the documents that were submitted in the name
14 of Harold Tischler companies. This Redweld marked 107 contains
15 5318 16th Avenue Enterprises, and you'll see they were sent to
16 his home address.

17 Keep in mind, ladies and gentlemen, that each of those
18 applications generated mail, and this is just the Department of
19 Labor. This isn't taking into account the mail generated by
20 the immigration authorities. So just one company is generating
21 at least this much mail going directly to Harold Tischler's
22 home address. There were other companies, State to State, also
23 going to Harold Tischler's home address. 387 Quincy Associates
24 also going to, among other places, Harold Tischler's home
25 address. Vintage Partners also going to Harold Tischler's home

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1 address. Fix Anything Construction going to, among other
2 addresses, Harold Tischler's home address. Vintage Builders,
3 Millennium developers, BSD contracting, over and over again
4 there's mail going to the defendant's home. There's mail going
5 to the defendant's business address. There's mail from the
6 Department of Labor. There's mail from immigration.

7 In the real world, how is it possible to have this
8 much mail and not ask yourself what's going on? Of course he
9 knew what was going on, because he was being paid to receive
10 this mail because this mail contained the blue labor
11 certifications. This mail, which goes to his home address,
12 which goes to his business address, contains the blue pieces of
13 paper that are critical to continuing the fraud. How did those
14 blue pieces of paper get from Harold Tischler's home and
15 business to the law firm so that they can be submitted to
16 immigration? You know how. Harold Tischler brings them to the
17 office, and that's what he's paid to do.

18 But he does more than that. He doesn't just provide
19 company information. He doesn't just have those labor
20 certifications delivered to his home address. No, he provides
21 a phone number so that the Department of Labor can call him and
22 can confirm that he's actually sponsoring these aliens. And
23 you saw that phone number in the applications. You saw one of
24 the phone numbers was (718)288-7844. There's no doubt this is
25 Harold Tischler's phone number. Among other things, it's

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1 subscribed in his name. You can look at the subscriber
2 records, they're in evidence, Government's 223.

3 You also saw, you also saw -- so we have the
4 subscriber records that are being shown on the screen, 223.
5 You see it's the relevant time period. And if you scroll down
6 in Government's 223, you see it's Harold Tischler, it's at 4316
7 17th Avenue, the same address that much of this mail is being
8 sent to.

9 How else do you know it's Harold Tischler's phone
10 number? Well, you saw in Government's 507, which is a screen
11 shot from Sam Salamon's phone, that the phone number was in
12 there as Harold Tischler's phone number. Tish. (718)288-7844.

13 And, finally, how else do you know that this is Harold
14 Tischler's phone number? Well, one of the defendant's own
15 witnesses came in and was asked, hey, when you talked to
16 Mr. Tischler, what phone number did you call him on? He said
17 (718)288-7844. So this is Mr. Tischler's phone number.

18 You also know Mr. Tischler received several phone
19 calls from the Department of Labor. How do you know that?
20 Well, you know that because over and over again you saw the
21 call notes that were associated with the files, with the labor
22 certifications filed in his company's name, and then you saw
23 matching toll records that there was a phone call from the
24 Department of Labor to Harold Tischler's phone and the call
25 records even say spoke with Harold Tischler and confirmed

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1 sponsorship.

2 Let's bring up Government's 107-20-A together, and I
3 believe it's one of the slides, together with the various
4 pieces of information showing, showing not just the call note,
5 but also the toll record and showing that they in fact spoke
6 with Mr. Harold Tischler who confirmed sponsorship.

7 Sorry for the delay, ladies and gentlemen. Sorry
8 about that. We have slides which will make it easier instead
9 of having to go through each exhibit and jump back and forth so
10 I apologize for the delay. Technology is great in the courts.

11 Okay. So here we have the slide we were discussing
12 and I want to zoom in on a couple of them. First let's zoom in
13 on the portion of the call note at the top of the page. What
14 does that call note say on line 1? It says spoke with
15 Mr. Harold Tischler who confirmed sponsorship and that's on
16 May 14, 2008. And if you zoom out, from May 14, 2008, what you
17 see below that is a segment from another Government Exhibit,
18 Government Exhibit 107-20. And what does it say there? It has
19 Harold Tischler's name listed, it has his home address listed,
20 and it has his phone number listed as (718)288-7844.

21 And what's below that? If we blow that back up. The
22 section from the government's toll records showing or I should
23 say the phone company's toll records, which is a Government
24 Exhibit 223-1, which shows that on May 14 there's an incoming
25 call from the Department of Labor for four minutes. And you

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1 see this over and over and over again. Do you have the slides,
2 okay.

3 So, ladies and gentlemen, you'll see that you have in
4 evidence phone calls from Mr. -- to Mr. Harold Tischler's phone
5 number May 16, 2008, on June 25, 2008, on July 28, 2008, on
6 August 29, 2008, on December 4, 2008. Over and over and over
7 again he's called by the Department of Labor. He confirms the
8 sponsorship. It shows up in the toll records. There's no
9 doubt he was receiving those phone calls and lying to the
10 Department of Labor to confirm sponsorship just as he was paid
11 to do. And you know those lies were successful because the
12 proof of it is that the blue labor certification is generated.
13 It's brought to the law firm. It makes its way into the alien
14 files and now makes its way to you.

15 Ladies and gentlemen, you also saw a call on April 28,
16 2009. In that call note we saw Mr. Tischler denied
17 sponsorship, said he was no longer sponsoring the alien. That
18 call note was April 28, 2009. You know exactly why that call
19 happens. As Agent Gordon told you, in January 2009, she goes
20 to Harold Tischler's business and she serves him with a
21 subpoena. So he's served with, personally served with a
22 subpoena at that point when the Department of Labor calls in
23 April of 2009. He says no way, I'm not doing it anymore, and
24 that makes sense. It confirms not only that Harold Tischler
25 was participating in a fraud, but it also confirms that those

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Summation - Mr. Pastore

1 earlier calls were Harold Tischler because once the agent shows
2 up, once he's personally served, that's it. He stops
3 confirming sponsorship and that just makes common sense.

4 You also know that (718)288-7844 was not the only
5 phone number that Harold Tischler used to field calls from the
6 Department of Labor. You know he also used (718)854-6622.
7 Now, how do we know that that is Harold Tischler's phone
8 number? Well, if we bring up slide C19, first you'll see the
9 call note and it says left message to have Mr. Harold Tischler
10 call me back. And tent the second one is verified with
11 Mr. Tischler that he is sponsoring, sponsoring the worker. And
12 the phone number is (718)854-6622.

13 If we go to the next slide, slide C20, these are
14 checks from Government's 207, and what do you see? You see
15 Mr. Tischler paying for that phone number. You see the memo
16 line (718)854-6622. And I don't think there's any dispute that
17 these are actually checks from Mr. Tischler's company. You
18 heard on cross-examination of Agent Gordon, did you examine the
19 bank accounts, did they appear to be active bank accounts. The
20 answers were yes. They come out of Mr. Tischler's bank
21 account. He's paying for that phone number during the relevant
22 time period. You'll look at the dates on the checks. You've
23 got December 2006, January 2007, February 2007. You compare
24 that with the call note January 2007, this is Mr. Tischler's
25 phone number. He's paying for it. He's getting the calls from

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Summation - Mr. Pastore

1 the Department of Labor on yet another phone. He's doing
2 exactly what he was paid to do.

3 Now, Mr. Tischler, as you know, helped the fraud in
4 many different ways and he got paid to do it, and we've been
5 going through some of the documents so far this morning that
6 show exactly what he did and how he did it. But you don't have
7 to rely on just the documents in this case because you heard
8 from two cooperating witnesses who gave you an insider's view
9 of exactly how this fraud occurred.

10 Now, make no mistake about it. These two witnesses
11 are not testifying out of the goodness of their hearts. You
12 heard that they're charged and pleaded guilty to serious
13 federal crimes, they're hoping for leniency by cooperating with
14 the government. And at the beginning of this trial, my
15 colleague, AUSA Janis Echenberg, said because of that you
16 should scrutinize their testimony. You should look at it,
17 carefully consider it. You should consider what David
18 Grynsztajn told you and what Sam Salamon told you and you
19 should compare it, does it match up. But you shouldn't compare
20 only the testimony each of those witnesses gave. You should
21 compare their testimony with the documents in the case and with
22 the testimony of all the witnesses. See if it fits together.
23 See if it makes sense. Ladies and gentlemen, I submit that it
24 does.

25 Sam Salamon and David Grynsztajn are not friends. You

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Summation - Mr. Pastore

1 heard their relationship ended badly, that they have not spoken
2 to each other since 2007. And yet when they got on that
3 witness stand, their stories, their testimony, was remarkably
4 consistent. Make no mistake, David Grynsztajn threatened
5 people to get money. It's clear that's how the law firm
6 operated. You heard evidence that Rafi Brodjik did the same
7 thing. You heard Libney Milano's name mentioned, Earl David's
8 girlfriend, you heard she threatened to turn people in to the
9 authorities, and you heard that Gulay Cibik threatened to turn
10 people in to the authorities. We're not asking you to condone
11 what Mr. Grynsztajn did or Mr. Salamon did. But we're asking
12 you to weigh their testimony, carefully consider it, and see if
13 it fits together with all the documents in this case.

14 Consider, for example, what David Grynsztajn told you
15 about Mayer Weber. Let's bring up slide C37, which is
16 testimony from David Grynsztajn about the sponsor Mayer Weber,
17 who's on the board here. What did Mr. Grynsztajn tell you? He
18 said, well, I believe that Mr. Weber provided sponsors for
19 nursing homes, and I believe those nursing homes may have been
20 in Connecticut.

21 What did Ilhan Altintas you? This happened very
22 quickly so you may not remember it. Let's look at C38. Do you
23 remember Mr. Altintas told you the first time they went in to
24 Gulay Cibik they were considering doing an application for his
25 wife and there was going to be a sponsor and this sponsor was

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Summation - Mr. Pastore

1 going to be a nursing home. What does he say, what type of
2 sponsor was it, I asked him. And he answered nursing home. It
3 may also be in Connecticut, that sponsor.

4 Mr. Altintas told you the only people he dealt with in
5 that law office, Gulay Cibik, Sharoni, and Jed David Philwin,
6 not David Grynsztajn. The reason that this matches up is
7 because that's how it happened. Mayer Weber provided nursing
8 homes as sponsors and they were in Connecticut.

9 Now, both David Grynsztajn and Sam Salamon also told
10 you about the phony experience letters and the phony job offer
11 letters that were created in the law firm. You remember that
12 testimony about the letters being created on the computers, and
13 you remember that both David Grynsztajn and Sam Salamon
14 identified Government's 3022 as stationery that was used to
15 create this phony experience letters. This stationery, as
16 Agent Gordon told you, was taken out of defendant Brodjik's
17 home. And that matches up with Government's 1114-7, which is
18 one of these fake letters that's on the same stationery. It
19 was taken from an alien file. It was submitted to the
20 immigration authorities. Once again, what David Grynsztajn and
21 Sam Salamon testified to is perfectly corroborated by the
22 documents.

23 Sam Salamon and David Grynsztajn also told you that
24 aliens who came in and needed a sponsor were charged more money
25 than folks who provided their own sponsors. That's

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Summation - Mr. Pastore

1 corroborated by multiple pieces of evidence. First, you heard
2 that when Gulay Cibik was interviewed by Agent Gordon, she
3 said, well, we charge about \$4,000 if you have your own sponsor
4 but we charge about \$7,000 if you needed a sponsor. And you
5 know why they charged more money if the alien needed a sponsor,
6 because the sponsors had to be paid off. Sponsors were in on
7 it. There were additional documents that needed to be created,
8 the fake tax returns, the fake job offer letters, potentially
9 the fake experience letters.

10 How else do you know that that's exactly how it
11 happened? Take a look at Government's 3032-8. This was a
12 document that Agent Gordon testified was taken out of Leo
13 Teitelbaum's home. And when you look at this document, you'll
14 see it's in blue handwriting and David Grynsztajn identified
15 for what you this document is. It's a receipt from Lipa
16 Teitelbaum because Lipa Teitelbaum would cash checks against
17 the YM Pollack account and then he would provide the money to
18 David Grynsztajn. When you look at this, you see that the
19 receipt actually captures all of that information. It's
20 \$5,500, that's the total amount of checks. \$330, it says check
21 cashing, that's Lipa Teitelbaum's fee. \$700 and what does it
22 say next to it, sponsor. That's the sponsor payoff. Then it
23 says paid to David, that's Earl David's cut. Then the balance,
24 the handwriting is difficult to make out, David Grynsztajn
25 testified that's BAL 1470. Once again, what David Grynsztajn

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Summation - Mr. Pastore

1 and Sam Solomon told you about how this fraud works was
2 corroborated by documents that were retrieved pursuant to
3 search warrants from Leo Teitelbaum's home.

4 Now, how else can you measure David Grynsztajn and Sam
5 Salamon's testimony? What else did they tell you? Well, they
6 told you that phony tax returns had to be prepared, and they
7 told you there was several different individuals who prepared
8 those phony tax returns. You remember some these individuals.
9 They're on the board here. You remember that David Vago
10 provided one type of tax return. David Vago had those tax
11 returns that just had copy stamp on the bottom of them. And
12 David Grynsztajn remembers seeing David Vago sitting there with
13 the copy stamp at the copy machine actually preparing these tax
14 returns and he went to David Vago and he picked up those tax
15 returns and he paid David Vago.

16 And you also heard that Alex Lev and Angelica Yonayev
17 prepared different types of tax returns in a way that was more
18 sophisticated. They had signatures, they had IRS
19 certifications on them. And you know why they had to do that,
20 because sometimes, as Faith Campbell told you, the witness from
21 immigration, sometimes the immigration authorities are going to
22 ask for certified and signed copied of the tax returns to
23 actually confirm that these companies were legit, that they
24 really could sponsor these aliens.

25 And what do you see in the documents in the client

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Summation - Mr. Pastore

1 files that the government has introduced into evidence here?

2 Well, take a look at 3065-6-A. Okay. This is a document that
3 comes out of Dina Abouzeid's client file, one of the files that
4 was seized pursuant to many of the search warrants that were
5 done in this investigation. You remember the series of quick
6 witnesses that performed the searches. These are documents
7 from the searches. This is one of those documents, 1998 tax
8 return for My Favorite Bakery and Cafe. And if we zoom out and
9 you look at the bottom, you see that it just has a copy stamp
10 on it.

11 Now if you look at another document also from this
12 same client file, 3065-4, let's take a look and see what
13 happens. 3065-4 is a letter from Lipa Teitelbaum to Angelica.
14 Ladies and gentlemen, you now know who Angelica is. That's the
15 other accountant. And what's Lipa asking? I need 2004 tax and
16 stamp. Sample from 2003 enclosed. If you look at 3065-8,
17 you'll see it's some handwritten notes. Look at the top one.
18 Taxes certified '98 to '04. They're writing down what they
19 need. They need the taxes to be certified from '98 to '04. So
20 if you look at Dina Abouzeid's client file, it's in evidence,
21 it will be with you in the jury room, what you see first is a
22 bunch of tax returns that were provided by David Vago that just
23 have the copy stamp. Then you see these letters needing the
24 additional tax returns. And then what do you see? If you take
25 a look at 3065-10-A, you see that in fact the same tax return

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Summation - Mr. Pastore

1 from 1998 for My Favorite Bakery now has that certification on
2 it, now is signed. They got the information they needed.
3 Perfectly consistent with what David Grynsztajn and Sam Salamon
4 told you.

5 That's not the only document on taxes that's entirely
6 consistent and matches up with what Sam Salamon and David
7 Grynsztajn told you. If you look at 3071. That's a document
8 that was taken from Leo Teitelbaum's home. And if you look at
9 that document, you'll see it's a spreadsheet that's keeping
10 track of the taxes of what they need to pay to the various
11 accountants to produce these taxes. It says only stamp and
12 it's cut off, but it says with stamp. On the right-hand side
13 it says Lipa. If you go to the next page of this document,
14 Angelica's name is written on the side there.

15 Again, ladies and gentlemen, David Grynsztajn and Sam
16 Salamon testified that this is exactly how the firm worked.
17 And then when you look in the client files, you see documents
18 bearing that out over and over and over again. In evaluating
19 their testimony, the testimony of Sam Salamon, David
20 Grynsztajn, it's important to consider not only what they told
21 you but what they didn't tell you. You remember they were
22 asked did the sponsors know about the taxes and they said no.
23 The sponsors didn't know about the taxes. We kept them in the
24 dark about that. We thought that would have been more trouble,
25 probably would have cost more money. Would have been an

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Summation - Mr. Pastore

1 additional lie that they would have had to sign off on so they
2 say no. Sponsors didn't know about that.

3 And what did David Grynsztajn tell you about Nathan
4 Schwartz? Really nothing. He didn't know Nathan Schwartz. He
5 didn't sit here and point the finger at Nathan Schwartz. Why
6 is that? Sam Salamon told you why. Because where would Nathan
7 Schwartz get paid? Sam Salamon's good friend. He would come
8 over to Sam Salamon's house. He rarely if ever went to the
9 office. And if you look at the applications, most of the
10 applications for Nathan Schwartz are made long after David
11 Grynsztajn is gone from the firm. So it makes sense that David
12 Grynsztajn wouldn't have and didn't have anything to say about
13 Nathan Schwartz. He saw these four defendants sitting here at
14 the defense tables. If he really wanted to please the
15 government, he could have pointed the finger at Nathan Schwartz
16 and said, yeah, he was involved too. But he didn't do that and
17 he didn't do that because he was telling you what he knew and
18 what happened.

19 Now, what did David Grynsztajn tell you about Harold
20 Tischler and how does that compare with what Sam Salamon said?
21 Well, you remember that David Grynsztajn said, you know, I
22 remember that Harold Tischler had some sort of, you know,
23 plumbing company but he couldn't remember the name. Well,
24 ladies and gentlemen, you've now seen it. Fix Anything
25 Construction and Plumbing. I asked him do you remember 387

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Summation - Mr. Pastore

1 Quincy Associates? He said, yeah, I remember this company.
2 Can't really remember any other companies, but I do remember
3 that they were all at the same address. Do you remember that
4 testimony? And what do the documents show? 4316 17th Avenue
5 is the address that's used over and over again for these.

6 What else did David Grynsztajn tell you about Harold
7 Tischler? He told you he remembered Harold Tischler coming
8 into the office and being upset. It's at the transcript at
9 page 1153. You can check it. He says he remembers Harold
10 Tischler being upset there was applications being submitted and
11 he wanted more money. And that makes perfect sense. He
12 overheard an argument between Sam Salamon and Harold Tischler
13 in the same office that they worked. And he knew that Harold
14 Tischler had some sort of receipts and was being -- was
15 demanding payment.

16 Ladies and gentlemen, you know that that's exactly
17 what happened because Sam Salamon and David Grynsztajn told you
18 that is what happened, but you also saw Harold Tischler's own
19 words telling you that happened. That's Government 505-A. If
20 you look the 505-A, you remember this is a screen shot from Sam
21 Salamon's phone. What does it say? Harold Tischler writes:
22 Are you nuts? I forgive you for always keeping me waiting and
23 always making me come back and lying to me about filing
24 documents to the labor department more than you ever told me.
25 To this date, I'm still getting mail.

D21LCIB1

Summation - Mr. Pastore

1 That's perfectly consistent with the argument that
2 David Grynsztajn overheard. It's perfectly consistent with the
3 Sam Salamon's testimony that sometimes he would give Harold
4 Tischler a few bucks because he came all the way in from
5 Brooklyn and he kept him waiting. And you heard they argued
6 about the amount that Harold Tischler should receive for each
7 of these phony sponsorships.

8 What else did Sam Salamon tell you about how Harold
9 Tischler was paid? He said sometimes he would pay him in cash.
10 Sometimes he would pay him personally. Sometimes Moishe
11 Rosenberg would pay him. And you know both David Grynsztajn
12 and Sam Salamon identified Moishe Rosenberg as one of the
13 workers in the office, but he also said sometimes Lipa
14 Teitelbaum would pay him and he'd pay him by check.

15 Well, what did we see in evidence? Government's 202.
16 If you look at Government's 202, what you see is the checks
17 that are used over and over again to pay Harold Tischler for
18 those phony sponsorships. Take a look at what's on your
19 screens and you'll see, for example, the bottom check, it's
20 coming out of the Yisrael M. Pollack account, YM Pollack. You
21 remember Ilhan Altintas had to write a check and then YM
22 Pollack was filled in on it. You remember David Grynsztajn,
23 there was a bunch of YM Pollacks in David Grynsztajn's
24 handwriting on checks.

25 You remember that both David Grynsztajn and Sam

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Summation - Mr. Pastore

1 Salamon told you that YM Pollack is someone whose name Lipa did
2 in the bank business he was in.

3 (Continued on next page)

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D210cib2

Summation - Pastore

1 So why in the world is Harold Tischler getting a check
2 from YM Pollack. You know exactly why. Sam Salamon told you
3 why. Because he's sponsoring aliens falsely and getting paid
4 for it.

5 But you know more. You know that Harold Tischler was
6 also active in other ways. If you look at government
7 exhibit 3612, it is one of those e-mails that you heard Agent
8 Mirandona testify about; one of those e-mails on Sam Salamon's
9 computer.

10 One of the things that went by pretty quickly, you
11 remember there was that sketch of 125 Maiden Lane, had
12 different rooms labeled with the different numbers. You
13 remember there was F1 that kept coming up, F1. That's where
14 the e-mails were, they were on that computer. And what did Sam
15 Salamon tell you when was showing you that piece of paper? He
16 said, oh, yeah, I sat in room F at desk 1; yeah, fits
17 perfectly.

18 What does this e-mail show? Well, it shows that
19 Harrythemn is forwarding to Sam Salamon a Department of Labor
20 inquiry; some information from the Department of Labor about a
21 case, Fix Anything Construction and Plumbing, right. There it
22 is again. Plumbing company. Remember David Grynsztajn
23 couldn't remember the name, he said it was some sort of
24 plumbing company. There it is. And its he from Harrytheman.
25 And you know it's Harold Tischler's e-mail address, because

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Summation - Pastore

1 several reasons. It's stipulated. You'll see there is a
2 government stipulation that says that Harrytheman was used by
3 Harold Tischler during the relevant time period. But you also
4 saw it in government exhibit 204. Those were the opening
5 documents for the post office box that some of the mail was
6 directed to. That post office box in Brooklyn and in 301.

7 So in ways large and small, Harold Tischler helped the
8 fraud. But he didn't just sponsor aliens. You remember, he
9 was also paid for signing a lease. He was paid about \$5,000
10 for signing that lease. And you saw that lease. It was
11 government's 200. You heard the witness come in and testify
12 that that lease was in the business files, it was admitted into
13 evidence. Sam Salamon explains that the signature on that
14 lease was, indeed, Harold Tischler's signature.

15 What else did he tell you? He told you he couldn't
16 remember who the guaranty was signed by, if he signed it, or at
17 least that Harold Tischler signed it. And he told you about
18 the lease for next office space. And he said no, no, I think I
19 signed that one. And then Harold Tischler found out about it
20 later, and had to essentially pay him off.

21 So, again, look at not just what Sam Salamon is
22 telling you, not just the times that he is explaining how the
23 defendants were involved, but also the times that he takes
24 taking responsibility and he is saying, no, I did this behind
25 their back, they found out about it, and then I had to pay

D210cib2

Summation - Pastore

1 them. It all makes sense, I submit that it all makes sense if
2 you just use your common sense, think about how it matches up
3 with the documents, think about how it matches up with the
4 testimony of the other witnesses.

5 How else do you know that Harold Tischler was fully
6 involved in this fraud and knew exactly what was going on?
7 Take a look at government's 501. This is the Facebook post
8 from Harold Tischler to Sam Salamon's account. And what does
9 it say? Moser put me in jail, wow. Not why are you lying
10 about me, not why are you testifying falsely, not what kind of
11 story are you making up; none of those things. No. Moser,
12 snitch, rat, you put me in jail, wow.

13 Ladies and gentlemen, I want to turn now to Nathan
14 Schwartz. You know that Nathan Schwartz played a similar role
15 to Harold Tischler. You know that over and over again Nathan
16 Schwartz' companies were used to falsely sponsor aliens.

17 Now, there has been reference throughout this trial in
18 opening statements and in cross-examination to two employees of
19 Nathan Schwartz. They have been referred to as legitimate
20 employees. And you remember Mr. Brill in opening argument --
21 and again, I want to be very clear. The defendant has no
22 obligation, no burden. The burden is always on the government
23 the prove its case beyond a reasonable doubt. But when the
24 defendant makes arguments, you are allowed to consider those
25 arguments.

D210cib2

Summation - Pastore

1 So in opening statement, Mr. Brill said, this is how
2 Nathan Schwartz got involved. There were two legitimate
3 employees and then essentially Sam Salamon ran wild with this
4 information. And that explains why Nathan Schwartz' name is
5 all over these files. And you remember that those two
6 legitimate employees were, in fact, identified during trial;
7 government's 303. It is the opening account -- I'm sorry, the
8 opening documents for that mailbox, that mailbox at 46 Main
9 Street. You remember Isaac Sruogo came in, explained how the
10 license is checked, and how other people could be put -- can be
11 put on the application. And, indeed, you see that other people
12 are put on the application.

13 And you also saw that their documents were included,
14 if you scroll forward. And this document will be with you in
15 the jury room. But Henry Castillo and Jose Torres, right,
16 those were the two people that there is a lot of questions
17 about that appeared to be legitimate employees. And Sam
18 Salamon said, as far as he knew, actually, there were two
19 employees that Nathan Schwartz was looking to hire. So it
20 seems that there is really no dispute that Nathan Schwartz was
21 involved in the applications for these employees.

22 So let's take a look at those applications. 1209-5 is
23 in evidence. It's Henry Castillo's application. And if we can
24 bring that up on the screen. And if we could go a couple of
25 pages in, you'll see Henry Castillo's name. You'll see that

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Summation - Pastore

1 it's Contour Framing. If we could zoom in. Okay, so this is
2 Henry Castillo's labor certification. It is in the name
3 Contour Framing, Inc. That is the company that is being used.
4 And, similarly, there is a labor certification associated with
5 Jose Torres' A file. That is government's 1210-2. That's also
6 in evidence.

7 Now with respect to Jose Torres' A file, you heard
8 there was some confusion, that actually the labor certification
9 ap gets submitted in the name of a different alien. You'll be
10 able to see it. But it is in the name of Pedro Avila. I
11 remember that there were questions on cross-examination why is
12 that labor certification in the client file. Well, it wasn't
13 just in the client file, it actually made it to the A file, and
14 you know that because this document's from the A file, so you
15 know that the certification got confused, the prong
16 certification got sent in to immigration. Okay.

17 So, as I was saying, I don't think that there is any
18 dispute that Nathan Schwartz was involved in these
19 applications. And perhaps not surprisingly, if you look at the
20 signatures on the labor certifications, and if you look at the
21 signatures on the associated I-140s, you remember that those
22 are the visa petitions that go to the Department of Labor and
23 have to have these labor certifications with them. The
24 signatures, it's up for you all to decide, ultimately, but the
25 signatures appear to be Nathan Schwartz. We've put together a

D210cib2

Summation - Pastore

1 slide. It's slide C 1. And, basically, what we have done is
2 we have looked at -- if you look at the left-most column on
3 your screen, you'll see government exhibit stickers. And
4 you'll have these exhibits in front of you in the jury room.
5 And what government's -- what those government exhibits are
6 things that I believe there would be no dispute that those are
7 Nathan Schwartz' signature. They are from bank records, they
8 are from opening documents for that mailbox that is Isaac Srugo
9 testified about. That's one column. The next column of
10 signatures are the immigration and labor certifications for
11 Henry Castillo and Jose Torres, the folks that have been
12 referred to throughout this trial as legitimate employees.

13 And then off to the right are labor certification
14 signatures -- I should say signatures on labor certifications
15 that Sam Salamon in his own testimony told you he forged Nathan
16 Schwartz' signature. And you see that Sam Salamon made no
17 effort to have his signature look anything like Nathan
18 Schwartz. And you know why? Because Nathan Schwartz was in on
19 it. He didn't care, he didn't need to sit there and trace the
20 signatures, no. Nathan Schwartz was in on it. He knew that if
21 Nathan Schwartz was called or asked about it, Nathan Schwartz
22 would say, yeah, I'm sponsoring these aliens.

23 So you have the signatures that Sam tells you are his
24 own; they look nothing like Nathan Schwartz'. You have the
25 signatures on the applications that Nathan Schwartz appears to

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Summation - Pastore

1 be associated with. And it's up for you, ultimately, to
2 decide, but the signatures, I submit, look fairly similar. I'm
3 sorry, the signatures that we know are Nathan Schwartz' look
4 fairly similar to the aliens that have been referred to as
5 legitimate aliens.

6 So what do these two applications for these two
7 supposedly legitimate employees show? Well, even these two
8 applications are full of lies. This was a fraud from the
9 beginning. Let's start with 1209-3, page 9 of 10. Let's look
10 at the filing date. The filing date for 1209-3 is July 13th.
11 And if you look at 1209-5, that's the labor certification and
12 the filing -- I'm sorry the filing date for the labor
13 certification is July 13th. The filing date for the I-140
14 roughly matches the date of the labor certification. That's
15 how you know they are associated, that's how you know that they
16 were the --

17 So let's take a look at page 9 of 10 of 1209-5 and see
18 that filing date, okay. It's on the bottom portion of the
19 screen. It says filing date July 13th, 2006, do you see that
20 there? Okay. Now, if you go to section C, there is some
21 employer information there. And you will see that it says
22 Contour Framing, Inc. and headquarters is listed 46 Main
23 Street, Suite 226.

24 Now, what's the critical piece of information here?
25 Look at section 5, number of employees, 17. That's not true.

D210cib2

Summation - Pastore

1 Contour Framing didn't have 17 employees in 2006.

2 Take a look at government exhibit 306. Government 306
3 which was admitted by stipulation are tax records of wages
4 associated with Contour Framing, Inc.. How many employees does
5 it show for Contour Framing, Inc. in the first quarter of 2006.
6 Do you see the X next to one on the top right, January 1 to
7 March 31? That shows that this is for the first quarter. How
8 many employees? Well, first month, second month, third month;
9 one employee.

10 Let's go to the next page of this document? What's
11 the address listed for Contour Framing, Inc.? 214 Route 59.
12 Okay, you have seen that address, it comes up over and over
13 again. We'll see applications associated with that address in
14 a minute. You know that the suite numbers changed; sometimes
15 its was 110, sometimes it was 100. Or sometimes like in this
16 document, no suite number at all?

17 Let's continue on to the next page. How much is the
18 one employee of this company -- if you scroll down to the
19 bottom, how much is the one employee of this company being
20 paid? \$2,400. Nathan Schwartz. And he is being paid \$2,400.

21 If we keep going to the next pages, and I believe it
22 may be page 5. Okay. If we go to the next page, there we go
23 that page, and zoom in on the top again. You'll see that now
24 we're in the third quarter. And the second quarter is also in
25 there. And it reports one employee again. You'll see we are

D210cib2

Summation - Pastore

1 in the third quarter now. The third quarter of 2006. So near
2 the end of 2006. What does it report? Do you see where it is
3 handwritten in there? It says no payroll. No payroll for
4 third quarter of 2006. And then if you go to the very next
5 page, and you zoom in, Contour Framing, Inc. 214 Route 59.
6 Scroll down. Look right there, at number 23 -- if we can zoom
7 in on that. If you permanently ceased paying wages, enter the
8 date on the final payroll. It's a little bit above that.
9 There you go, 23. If you permanently ceased paying wages,
10 enter the date.

11 Contour Framing, Inc. permanently ceased paying wages,
12 according to this, on July 31, 2006. Again, Nathan Schwartz is
13 signing off on the documents saying he has 17 employees, saying
14 he is going to pay them a prevailing wage while he, himself, is
15 making \$5,000 in an entire year at Contour Framing, Inc.?

16 If you look, as well, at his own taxes, Nathan
17 Schwartz' own taxes, government's 322 for the year 2006.
18 You'll see that he claims employment at Contour Framing, Inc.
19 Look what his total take-home pay is; 5,000 bucks.

20 And if you go a couple of pages in, you'll see the
21 W-2. And if you look at the W-2, it's in the name Contour
22 Framing, Inc. Again 214 Route 59. Matches up with the New
23 York State tax records, matches up with that \$5,000, does not
24 show 17 employees. Does not show that he is paying anyone
25 wages when he files that labor certification. In fact, not

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Summation - Pastore

1 only is there a no payroll, it says permanently ceased making
2 payments. Permanently ceased payroll on July 31, 2006, just a
3 few days after the labor certification submitted on July 13,
4 2006.

5 If we go back to 1209-5, you'll see that there are
6 several certifications, we covered them earlier, that were
7 required to be made. And those certifications say, among other
8 things, that I can put the alien on the payroll. And that I
9 have enough money to pay them. And that I'm going to be paying
10 the prevailing wage.

11 If you're telling the New York State Department of
12 taxation that you have permanently ceased paying wages, it
13 can't possibly be true, that you are going to put this alien on
14 payroll, and you can afford to pay them prevailing wage,
15 particularly when you are only earning, yourself, \$5,000 that
16 entire year. You're not supporting 17 employees, you're not
17 going to have them on payroll.

18 If you look at 1209-5 you will also see that part E is
19 left blank. There is no indication that anyone at the law firm
20 helped to fill out this application. You'll see that part M
21 checks. And it was prepared by the employer. You know that
22 that is also false. And you'll see that right above Nathan
23 Schwartz' signature -- and now I'm holding 1210-2, you'll see
24 right above Nathan Schwartz' signature is that critical
25 certification. It says: I declare under penalty of perjury,

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Summation - Pastore

1 that I have read and reviewed this application, and that to the
2 best of my knowledge the information contained herein is true
3 and accurate. I understand that to knowingly furnish false
4 information in the preparation of this form, and any supplement
5 thereto, or to aid, abet, or counsel another to do so, is a
6 federal offense.

7 Ladies and gentlemen if you look at 1210-2 -- and I
8 have already talked about the signatures -- you'll also see a
9 very faint -- you can make it out, you'll have it in the jury
10 room with you. There is a yellow highlighted X next to Nathan
11 Schwartz' signature. Your common sense tells you, you'd
12 probably sign the forms yourself. And when someone is showing
13 you where to sign, they write that X there. But when you know
14 where to sign, you are not going to write an X for yourself,
15 you don't do that if someone else is signing the form. And
16 that's exactly what you see here.

17 So, even if those two employees were, indeed,
18 legitimate, the applications for them are certainly wrong. But
19 you know that Nathan Schwartz didn't just stop there. Nathan
20 Schwartz, like Harold Tischler, over and over again, furnishes
21 company's information so that it can be used in the fraud.

22 I have here Contour Framing Inc. That's the company
23 we have been talking about, that's the company that Nathan
24 Schwartz reports that he is employed by in 2006, earning \$5,000
25 a year. And you see the volume of applications. And you see

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Summation - Pastore

1 they are sent to 214 Route 59, Suite 100. That's 214 Route 59,
2 that is the address reporting for his employer, Contour
3 Framing, Inc. in 2006. Of course on the tax return, it doesn't
4 have a particular suite number, that's fine. 46 Main Street,
5 Suite 226 that is the opening, the account opening documents
6 that you saw that Isaac Sruger testified about, that Nathan
7 Schwartz license is included in, that Nathan Schwartz signature
8 is included on. That's that address.

9 So all of these applications are coming to that
10 address. But it's not just Contour Framing, Inc. it is CFI
11 Framing and Developers. Its Olympia York Builders. It's Bliss
12 9 Limited, it's the Sharp Shopper, Citi Car Van and Truck.
13 Again, all of this mail is coming to addresses controlled by
14 Nathan Schwartz, over and over again. This is just the
15 Department of Labor. This is not even considering the amount
16 of mail that was coming from the immigration authorities.

17 And Nathan Schwartz does, what? Nothing. Does
18 exactly what he is supposed to do. He takes the blue labor
19 certifications that are included in those mailings, and he
20 brings them to his friend, Sam Salamon, and he gets paid. And
21 you know he does that because, again, over and over again you
22 see in the A files, the alien files, that the blue labor
23 certifications are in there. They have to get from 46 Main
24 Street an address Nathan Schwartz controls. They have to get
25 from 214 Route 59, the address where he was employed at in

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Summation - Pastore

1 2006, the address that is connected to him in other ways, as
2 we'll see in a minute. They have to get from there to the law
3 firm so that it can be submitted with the alien files. The way
4 that that happens is that Nathan Schwartz delivers it to Sam
5 Salamon, and he gets paid for doing so.

6 But you know that he did more than that. You know
7 that, like Harold Tischler, Nathan Schwartz provided phone
8 numbers to be used in connection with the fraud. One of the
9 numbers that Nathan Schwartz used for that purpose was
10 (845)721-7455. You know that is Nathan Schwartz' number in
11 several ways. It's subscribed to Abraham Schwartz at 126 Route
12 59. And you know who Abraham Schwartz is, the Nathan Schwartz'
13 son.

14 Now, 126 Route 59 is the same address for Nathan
15 Schwartz that appears on government's 3002, which are receipts
16 for some work that Nathan Schwartz did on Sam Salamon's
17 kitchen. And if you look at page 17 of this document -- well,
18 since we have it on the screen, we'll stay with that. If you
19 look at this document, in addition to seeing 126 Route 59,
20 we'll see in a minute, you'll see that this is listed at
21 (845)721-7455 is listed as Schwartz' address. And you know
22 what that writing next to Schwartz is, Nuchem. And Sam Salamon
23 translated that for you, so Nuchem Schwartz, (845)721-7455.
24 And next to it is Sam Salamon's phone number (917)846-4083.
25 And if you look further on in this document, I believe it is

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Summation - Pastore

1 about page 17, you'll see that Nathan Schwartz' address is
2 listed as -- I'm sorry. You'll see that Nathan Schwartz'
3 address is listed in this document as 126 Route 59.

4 How else do you know that (845)721-7455 is in fact
5 Nathan Schwartz' phone number? Well, it's also on the mailbox
6 for 46 Main Street. If you look at government exhibit 304,
7 mailbox is opened in the name of Contour, or this invoice
8 indicates Contour Framing. And the phone number is
9 (845)721-7455, once again, Nathan Schwartz' phone number. If
10 you look at government's 308, which is New York State
11 Department of Labor records, take a look at page 3. And we
12 focus in where it says Nathan Schwartz. And it has his
13 information there. We've got, once again, 214 Route 59 coming
14 up. And we have Nathan Schwartz' phone number being listed as
15 (845)721-7455. You even have checks, a check in which Nathan
16 Schwartz pays for this phone number. You have seen it, it is
17 government exhibit 307-1. And it has in the memo line this
18 phone number.

19 You also know that in Sam's phone, government
20 exhibit 503-1 and 503-2, this phone number appears. If we
21 bring up 503-1 you'll see that it is listed. The contact is
22 actually listed under Nuchem, it's nickname, Sam Salamon's
23 nickname for Nathan Schwartz. And if you go to 503-2, you'll
24 see the phone number listed with it. And, once again, it's the
25 same phone number (845)721-7455. And you heard Sam Salamon

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Summation - Pastore

1 testify that when he called that phone number, it was always
2 Nathan Schwartz who answered.

3 Let's take a look at slide C 23. Slide C 23 on the
4 left is the call note that is associated with a particular
5 file. And the file that's its associated with is CFI Framing
6 and Developers. And what does it say? It says: Left message
7 with David to have Nathan Schwartz give me a call,
8 January 23rd, 2008.

9 And if you look at the toll record that is associated
10 with this particular date, you'll see that there is an incoming
11 call from the Department of Labor's number on this date,
12 corresponding to the call. And what is the very next call?
13 Sam Salamon.

14 Now ladies and gentlemen, you remember Sam Salamon
15 testified about how this fraud would work, about how the
16 Department of Labor calls were handled? And do you remember he
17 testified that Harold Tischler really didn't have a problem
18 just talking to labor and confirming the sponsorships. Do you
19 remember he said that Nathan Schwartz was a little skittish,
20 and a lot of times Lipa Teitlebaum would have to call back. He
21 remembered a voicemail being played, because Schwartz was a
22 little bit nervous, he said, look, the Department of Labor is
23 calling me. And he played the voicemail for Sam Salamon. And
24 then Lipa would often have to call back. And you remember Sam
25 was frustrated because he said we were paying him, I felt that

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Summation - Pastore

1 he really should have been the one calling back. But what do
2 the call notes show. The call notes and the toll records bear
3 out Sam Salamon's testimony. They tell you that it happened
4 exactly the way that Sam testified about it. Because what is
5 the call note associated with this file. Zoom back in on it.
6 If we zoom back in on it, you'll see: Left message to have
7 Nathan Schwartz call me back.

8 Who calls back? Leo calls back and confirms
9 sponsorship. You know who Leo is, Lipa Teitelbaum.

10 So the call notes bear out the testimony of Sam
11 Salamon that Nathan Schwartz didn't like calling the Department
12 of Labor. There is another phone call from the Department of
13 Labor once again to Nathan Schwartz' phone. So January 16,
14 2008, slide C24. And you'll see the corresponding toll
15 records. And, once again, you see the call to the Department
16 of Labor. And then -- so you see: Receptionist will have
17 someone call you back as Nathan Schwartz is out of the office,
18 January 16, 2008. You go to the toll records, you see the
19 incoming call from the Department of Labor, that 404 number.
20 And then who did he call, or who calls him, just minutes later,
21 Sam Salamon.

22 Makes perfect sense, ladies and gentlemen. Call from
23 Department of Labor, communication with Sam Salamon, hey, we
24 got a call got to confirm sponsorship. And, occasionally, the
25 Leo Teitelbaum, actually Leo Teitelbaum was the one who calls

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Summation - Pastore

1 back. But you how did Leo Teitelbaum and Sam Salamon know to
2 make those phone calls. They know because Nathan Schwartz told
3 them. Because that's what he was paid to do.

4 If you look at slide C-28, you'll see another incoming
5 call. Again, March 12, 2008. Again, to Nathan Schwartz' phone
6 number. But this time there is an alias he uses, it is
7 Mr. Arnold Goldenberg. But if you look at the toll records,
8 again, you see a similar pattern. You see the call from the
9 Department of Labor. And then you see, few minutes later,
10 about a half hour later, you see the communication with Sam
11 Salamon. And over and over again, you saw toll records that
12 reflect that there was a voicemail -- I'm sorry, that the
13 voicemail was checked by Nathan Schwartz. And then what are
14 the next communications with Sam Salamon, it's with Leo
15 Teitelbaum. Look at slide C-25. Deals with call note on
16 February 21, 2008, showing that a voicemail was left. And then
17 you see, checking the voicemail, you remember the stipulation
18 that 000000086, that indicates that voicemail was checked. And
19 what happens just minutes after Nathan Schwartz checks his
20 voicemail? He speaks to Sam Salamon. Again, just like Sam
21 told you.

22 If you look at C-26, you'll see that, again, on
23 February 26, same pattern; checks voicemail, the call from the
24 Department of Labor says they left a voicemail, and
25 communication with Sam Salamon.

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Summation - Pastore

1 This happens again on May 14, 2008, slide C27, once
2 again, left voicemail, you know that the phone number is Nathan
3 Schwartz' phone number. Again, voicemail is checked. Sam
4 Salamon's phone.

5 Now, you have heard testimony about how close, how
6 friendly Sam Salamon and Nathan Schwartz, the defendant, were.
7 But you didn't hear any evidence that Nathan Schwartz was
8 friendly with Lipa Teitelbaum. You didn't hear any evidence
9 that they were close friends. And, yet, Agent Gordon told you
10 that when she looked through the toll records for Nathan
11 Schwartz' phone for the time period in 2008 when this is all
12 going on, in that year there is something like 30 phone calls
13 between Nathan Schwartz and Leo Teitelbaum. Why? The reason
14 that there is those phone calls is because the fraud is
15 occurring. Because he knows to reach out to Leo Teitelbaum, he
16 knows that the DOL needs to have those sponsorships confirmed.
17 Because that's how Nathan Schwartz gets paid. He only gets
18 paid for the approvals. So he has a real strong interest in
19 making sure that those approvals come through. And they did.
20 And you know they did, because you see them in the A files.
21 They made their way to the immigration authorities. You know
22 that Nathan Schwartz was successful in getting the Department
23 of Labor to issue those critical blue pieces of papers, those
24 critical blue pieces of paper that were then submitted to
25 Immigration to try to get additional benefits.

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Summation - Pastore

1 And you know that Nathan Schwartz provided other phone
2 numbers and other companies, you have seen them with Bliss 9
3 and Sharp Shopper. You have seen how that phone number was out
4 of service for a time period, and the phone call saying can't
5 reach Nathan Schwartz, have the phone number, it was
6 October 23rd. And then a October 27, 2008 call. And then,
7 finally, October 30, they reached Nathan Schwartz. And you
8 know when we looked at the subscriber records that was
9 subscribed to Bliss 9 Limited, a company that is in Nathan
10 Schwartz' name. You know that the Sharp Shopper, the corporate
11 records for the Sharp Shopper, show that the Sharp Shopper was
12 opened by Nathan Schwartz, that the address for the Sharp
13 Shopper was 46 Main Street, and that the process address where
14 service of process should come, so important corporate
15 documents was 115 Norben Road. And there is no dispute,
16 because that was the stipulation this was Nathan Schwartz' home
17 address. So you know he is connected to Sharp Shopper. It's
18 not just a coincidence that Sharp Shopper is connected to
19 Nathan Schwartz at his home address as a phone number that goes
20 back to Bliss 9, Limited, another company that's listed as
21 Nathan Schwartz. It's not an accident, it is fraud. That is
22 how this worked.

23 Like Tischler, Nathan Schwartz provided critical
24 assistance to the fraud in other ways, as well. You remember
25 that Sam Salamon said there was a time when he couldn't get

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Summation - Pastore

1 the -- the money out of Leo Teitelbaum's account, the fraud
2 proceeds. And he felt he was owed those proceeds because he
3 had earned them through the fraud.

4 Who did he turn to? He turned to his good friend,
5 Nathan Schwartz. And you remember that Sam Salamon told you
6 that Nathan Schwartz had a computer guy. His name was Simon.
7 And Simon took the signatures for Leo Teitelbaum, put them on
8 the check, did a cut-and-paste job. And they were able to get
9 the fraud proceeds out of Leo Teitelbaum's account. And what
10 there did they do with those fraud proceeds? Some of the fraud
11 proceeds went right to Harold Tischler. You saw the check,
12 government's 504. There is a check for Harold Tischler's
13 attorneys' fees. So Nathan Schwartz helps his friend, Sam
14 Salamon, get access to the fraud proceeds that Leo Teitelbaum's
15 account. And then this check is sent to Harold Tischler for
16 some of his attorney's fees. And look at the date, January 26,
17 2009. You know from the testimony of the law enforcement
18 witnesses that on January 15th, 2009, the raid happened.
19 That's when 125 Maiden Lane got searched, when 8082 got
20 searched. You know that is where the law firm was shut down.
21 So the timing of this check makes perfect sense.

22 Once again, what Sam Salamon is telling you is
23 corroborated by the documents in this case.

24 But that's not -- the bank checks are not the only
25 time that Nathan Schwartz helped with the cut-and-paste job.

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Summation - Pastore

1 Do you remember government's 3613 and 3614, they were e-mails
2 to Nathan at Monsey Framing. If we bring up 3613, you'll see
3 that in this e-mail from Sam Salamon to his friend, Nathan
4 Schwartz, he writes name, Lydia Chalen. The e-mail doesn't
5 mean much, until you hear Sam Salamon's testimony. What does
6 he tell you? He tells you that Lydia Chalen was an individual
7 that they were applying for, and that they needed some fake
8 documents to help out that application. They needed to change
9 the labor certification document to get her a priority date, do
10 you remember that, April 30, 2001 date that was talked about by
11 Faith Campbell, by Elissa McGovern, the witness from the
12 Department of Labor, how absolutely critical that April 30,
13 2001 date is.

14 And, sure enough, government's 1218 is an immigration
15 file associated with the Lydia Chalen. Sure enough, just like
16 Sam told you there would be, there is a filing for Lydia
17 Chalen. And if you look at 3614, you'll see another e-mail to
18 Nathan Schwartz. And you'll see it says:
19 cookany levys kosher garden corporation. Then it says: Care
20 of Shlomo Levy. Sam Salamon told you what this was, they
21 needed their state labor certification. And, again, you look
22 at the Department of Labor documents, government's 116. And it
23 bears out what Sam Salamon is telling. You see over and over
24 again that Levy's Kosher Garden is used to sponsor aliens. And
25 you even see that one of the names is Shlomo Levy. You see it

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Summation - Pastore

1 right at the bottom. Now it is being moved up and it's V.
2 Samuels. You know who V. Samuels is, he's one of the attorneys
3 who helped out with the fraud. And you know who Jed Philwin
4 is. Jed Philwin is one of the attorneys who helped out with
5 the fraud.

6 Again, Sam Salamon tells you, Nathan Schwartz is
7 involved. He is helping you do these cut-and-paste jobs. He
8 e-mailing you to do that, the filings for these people. That's
9 what happened. And, sure enough, the Department of Labor
10 documents bear it out, the A files bear it out. It is all
11 consistent, it all fits together. And how do you know that
12 that is Nathan Schwartz' e-mail address? Because Nathan
13 Schwartz tells you so.

14 Look at government 505B. It's a chat on Sam Salamon's
15 phone, between him and Nuchem. Again, different phone, you can
16 see that is an iPhone, as opposed the other flip phone with
17 contacts. Again you see Nuchem. And, again, you see e-mail
18 and then Nathan Schwartz writes back. Nathan at
19 monseyframing.com, the very same e-mail that was used to
20 communicate about those phony labor certifications that were
21 needed for Lydia Chalen and Levy's Kosher Garden.

22 Ladies and gentlemen, simply put, Nathan Schwartz and
23 Harold Tischler provided critical support to the fraud, from
24 helping to generate those blue labor certifications, fielding
25 phone calls from the Department of Labor, signing leases when

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Summation - Pastore

1 he needed space, getting access to the fraud proceeds when they
2 needed it, getting phony documents when they needed it. Nathan
3 Schwartz and Harold Tischler were compensated for everything
4 they did, and they did it willingly, and they did it knowingly,
5 and that is why they are guilty.

6 Let's then turn to Refael Brodjik collected money from
7 the employees of the firm. Night after night he could come
8 around and say, you got any gelp? And then he would pocket a
9 portion of the proceeds and transmit the money to Earl David.

10 Now, how do you know that's what Brodjik did? Because
11 he told you in his own words. You saw government's 3031. It
12 was a series of e-mails. I want to be very clear about where
13 these particular e-mails came from.

14 These e-mails, as you can see, are hard copy e-mails
15 that are in color, and they were seized from the defendant's
16 home. There is no doubt, no doubt that these came from the
17 defendant. And it's got his e-mail address on it. You know it
18 is his e-mail address in many, many different ways. You know
19 it's his e-mail address because the cooperating witnesses told
20 you so, you know it is his e-mail address because in these
21 e-mails is contained information that only Rafi Brodjik would
22 know.

23 So if you look at government exhibit 303 1-1, what
24 does it say. It says: Sam, as you know, I have decided to
25 terminate my relationship with you in the office. The time has

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Summation - Pastore

1 come for me to worry about myself and my family. Based on my
2 calculations, over the past year, you and your partner have
3 directly and indirectly swindled me, personally, not to mention
4 Earl, out of at least a thousand to \$2,000 a week. You do the
5 math. My conservative estimate is at least \$50,000 to \$75,000.

6 What is he talking about? You know exactly what he is
7 talking about. He's talking about getting the money, going
8 around and collecting it, and transmitting it to Earl David.

9 Now, a copy of this e-mail was found on Sam Salamon's
10 computer. You know that because the agent testified about it.
11 You saw it, it was government 3065. And you saw it, aside for
12 a line that looks like it got cut off in printing, you'll see
13 that's the e-mail recovered from Rafi Brodjik's home matches up
14 perfectly with that e-mail.

15 What other e-mails did you see that were seized from
16 Sam Salamon's computer? You saw the e-mail at 3607. And that
17 e-mail lays out, in detail, all of the different things that
18 Rafi Brodjik did to help the fraud. If you look at paragraph 7
19 of that e-mail, it's on the following page. Look at
20 paragraph 7. And it lays out, in detail, what Brodjik did.
21 You make it sound like all I did was go into the office an
22 collect money. Well, let me tell you, if I did not go, you
23 would have nothing at all. I sat in the office and fought for
24 every penny of your money. I was the only one you could trust
25 and it was me that enabled you to go sit in Canada.

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Summation - Pastore

1 What did he mean, what does he mean when he said it
2 was me that enabled you to go sit in Canada. You know exactly
3 what he means, because Sam Salamon told you that Rafi Brodjik
4 went up to Canada, set up Earl David, set up his computer
5 system so that Earl David would have the ability to remotely
6 control this fraud, to remotely accomplish the fraud.

7 How do you know that, in fact, Rafi Brodjik went to
8 Canada? Well, he says that he went to Canada. He says that he
9 was placed under investigation. He says he drove the car to
10 Toronto.

11 You know it yourself, you didn't and don't trust
12 anyone. If it was not for me, you would have gotten nothing
13 from that office. Your whole hookup with the office and your
14 ability to operate remotely was my idea, my setup against all
15 of losers in the office who said it would never work.

16 Again, not only is Rafi Brodjik telling you in his own
17 words exactly what he did, he is confirming that Sam Salamon's
18 testimony is exactly how it happened.

19 What else does Rafi Brodjik say. He says he goes
20 further, he doesn't just collect the money, he submits
21 immigration applications. You see in paragraph 8, he says
22 about Sunrise Food. And what does he say next, what is next
23 line. About Sunrise Food, I sent out a file to Immigration.

24 Once again, that is entirely consistent with what
25 David Grynsztajn said and what Sam Salamon said, that Rafi

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Summation - Pastore

1 Brodjik was not just passively participating, he was not
2 passively collecting money, he was actively doing the fraud.

3 Now aside from Rafi Brodjik telling you that he was
4 doing the fraud, that he was collecting money in the office,
5 how else do you know that in fact Rafi Brodjik was collecting
6 money? Well, take a look at government's 3033, which was
7 seized from Brodjik's home.

8 Now, this was admitted into evidence through Agent
9 Gordon. But we didn't talk about it much. It is an envelope.
10 And it's got on the outside, a tally. And it says Earl 3260;
11 Jed, minus 500, and it's got 2760. And another envelope that
12 has similar writing taken from Defendant Brodjik's home. You
13 have got receipts taken from Defendant Brodjik's home, 3015.
14 It's got a receipt. It says Lipa, tax. It has all -- an
15 accounting of various amounts of money.

16 Another receipt government 3016, perm, you know what
17 perms those are ETA 9089, blue labor certification.

18 Then it says R1. You heard testimony about what R1
19 are. You heard about it from David Grynsztajn, you heard it
20 from Sam Salamon, you heard it from Faith Campbell.

21 What else was found in Rafi Brodjik's home? A deposit
22 slip for a Citi Bank account in the name of Earl David. What
23 is significant about this other than it is deposited into Earl
24 David's account? The date on this is May 5, 2006. You know
25 where Earl David was in 2006, he was in Canada. He wasn't

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Summation - Pastore

1 around to deposit the money. This is Rafi Brodjik depositing
2 the money. And it was found in his home.

3 What else was found in his home. Well, government
4 3018, was a document from Rabbi Josepy. And you heard about
5 Rabbi Josepy's role in the fraud from David Grynsztajn and his
6 submission to immigration for benefits for an alien.

7 You also saw -- this was also admitted, didn't cover
8 it yesterday with Agent Gordon. Blank letterhead for a Jewish
9 Religious Institution; everything you need to create the phony
10 letters that go along with these applications.

11 And finally receipts for I-129 which, as Faith
12 Campbell told you was for religious workers. And I-360
13 receipts, at least one I360 receipt which Faith Campbell told
14 you was for the type of religious worker visa that could lead
15 to. So, here, it is, that proof that Rafi Brodjik was, just as
16 Sam Salamon and David Grynsztajn testified, involved in the
17 fraud in detail.

18 Now, Rafi Brodjik also was involved in the fraud in a
19 way that directly and personally benefited him and his family.
20 As you saw, Rafi Brodjik had a green card application that was
21 filed, and it was -- it was what was called a derivative green
22 card application.

23 If we look at government 410-2, you'll see that this
24 is Rafi Brodjik's derivative 14 card application. When I say
25 derivative, you know, now, what this means. It means that his

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Summation - Pastore

1 wife had the application, his wife's application was for an Abe
2 Flam Co. And you have seen that, that's government's 400
3 series. Those were the documents taken from Rachel Brodjik's A
4 file. And what you saw is in government's 400-3, that Rachel
5 Brodjik was being sponsored by Lakewood Bakery. And the
6 address of Lakewood Bakery was 1501 Pine Park.

7 Now, you know who Abraham Flam is. He is one of the
8 sponsors. You have heard testimony from David Grynsztajn, you
9 have heard testimony from Sam Salamon that Abraham Flam was one
10 of the people who was paid over and over again.

11 And you heard that Agent Gordon visited 1501 Pine
12 Park. And what did she find there? Not a bakery, not a
13 business, the personal residence of Abraham Flam. You saw that
14 photograph yesterday. This is fraud, through and through.

15 And Rafi Brodjik knew it was fraud. And you know that
16 he knew it was fraud, because he would go around the office
17 laughing about it. You heard both Sam Salamon and David
18 Grynsztajn testify about how Rafi Brodjik would go around
19 saying he was being substituted in, or his wife was being
20 substituted in, and bragging about it and joking about it. And
21 you heard that Rafi Brodjik was present for conversations when
22 Earl David was explaining exactly how it worked.

23 So, Rafi Brodjik, in his own I485, lies to
24 Immigration. And he lies to immigration in several different
25 ways.

D210cib2

Summation - Pastore

1 First, if you look at 410-2. You'll see that the
2 first lie is in part two when he says that, basically, I'm
3 relying on a legitimate application, right. Part B is checked
4 saying I'm relying on a derivative application.

5 And if you go to the next page, if we go to part
6 three, continue on to the next page. You'll see that there are
7 several form questions that are asked.

8 Question one: Have you ever, in or outside the United
9 States, A, knowingly committed any crime of moral turpitude or
10 drug related offense for which you have not been arrested, he
11 checked no. He knows full well that he is committing
12 immigration fraud. He knows full well that he is helping out
13 in that office, collecting the proceeds of immigration fraud
14 and transmitting them. He knows full well that that is a lie.

15 And if you look at question 10, it says: Have you, by
16 fraud or willful misrepresentation of a material fact, ever
17 sought to procure, or procure a visa or other documentation for
18 entry into the U.S. or any other immigration benefit. He marks
19 no. And he knows that that is a lie, because he is trying to
20 get an immigration benefit in this green card application based
21 on a phony sponsor for his wife, based on his phony -- on his
22 wife's phony I-140. So this is a lie, as well.

23 Now, these lies relate to the immigration fraud count,
24 charges 1546, violation of Title 18 United States Code 1046.
25 So this doesn't relate to the immigration fraud charge in

D210cib2

Summation - Pastore

1 count four for his naturalization application. This is not a
2 naturalization application, this is the green card application.
3 This is what comes first.

4 And you know that his application, with its lies, this
5 one, was successful. Because he got a green card, because that
6 allowed him to apply for naturalization.

7 So what this document relates to, is not the
8 count four but, instead, the conspiracy to commit immigration
9 fraud and the substantive immigration fraud count.

10 So now let's turn to the account that is unique to
11 Refael Brodjik, his lies in the naturalization application.

12 In his naturalization application, there are many
13 lies. If we look at government's 410. And the judge is going
14 to instruct you, I believe, that you should consider only the
15 statements that the government is alleging are false. And you
16 must be unanimous as to which false statement you believe that
17 Mr. Brodjik made. And you would all have to agree that at
18 least one false statement was made, and you have to be
19 unanimous as to which false statement was made. Again,
20 identify the statements that the government alleges were false.

21 First, let's go to the employment information. Let's
22 look at the bottom of the page. Section B says that he was,
23 that the defendant, Rafi Brodjik, was self-employed July 2006
24 to August 2007, gift packaging. Nowhere is it mentioned that
25 he worked at that law firm. And there is a simple reason for

D210cib2

Summation - Pastore

1 that. Because by this point, by the time this application is
2 submitted, Mr. Brodjik knows that the law firm is under
3 investigation. He, himself, had a search conducted at his home
4 by this point. So he knows that it would be a really bad idea
5 to put down the Earl David Law Firm as his employer.

6 So what does he do? He says he is self-employed, gift
7 packaging. You know that is a lie, because he fails to report
8 the law firm employment. So that's lie of omission. He omits
9 a critical fact. And you know that this fact is critical,
10 because you heard from Mr. Cycyk, the witness who actually
11 interviewed Mr. Brodjik for the naturalization application.
12 You heard that this is an important question to the Immigration
13 authorities. So you heard that it is material.

14 But it's not just that he left stuff out, he
15 affirmatively lies. If you look at his tax returns, in
16 government's 404, you will see that what he reports as his
17 employment in 2006 he says, well, he's unemployed at the time
18 he was filing the tax returns. If you go to next page, you'll
19 see that says "UE" unemployed. But if you go on another couple
20 of pages, you'll see -- I'm sorry, actually just on the next
21 page, I apologize. You'll see that he reports to IRS that he
22 is working as a computer repairman.

23 So when he reports to the immigration authorities that
24 he is self-employed doing gift packaging, that's a lie. It's
25 just flatly inconsistent with what he is telling the IRS. So

D210cib2

Summation - Pastore

1 not only does he fail to report the law firm, he lies
2 separately and says, no, I don't do computer repair, I'm
3 actually a gift packager.

4 There are other lies in the application, as well. If
5 we go to government's 410, again, and we continue to go through
6 it, you'll see that there are questions that Mr. Brodjik
7 answers, when clearly the answer, truthful answer, would have
8 been yes.

9 Go to the next page. Okay, there we go. One more
10 page. All right, so if we look at Section D, where there is a
11 series of questions about moral character, you'll see: Have
12 you ever committed a crime or offense for which you were not
13 arrested.

14 He marks: No.

15 (Continued on next page)
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D21LCIB3

Summation - Mr. Pastore

1 MR. PASTORE: But he knows that in 2006 over and over
2 again he was collecting money for immigration fraud. And he
3 knows that his home was searched by agents. And you heard from
4 the immigration witness who actually interviewed Mr. Brodjik
5 that he asks this question very broadly and gives, gave the
6 defendant opportunity to fully explain himself. He wanted to
7 be very clear. Have you had any contact with law enforcement,
8 anything at all we should know about. That's what this
9 question is asking. He says no, I've never committed a crime.
10 Yes, he has. He committed immigration fraud. He knows he
11 committed immigration fraud. He profited from it. He told you
12 himself how much money he estimated he earned, 50 to \$75,000
13 that he was owed. That was just what he was owed. So that too
14 was a lie.

15 If we go on to the next page, you'll see, can we go to
16 the next page. Go back a couple pages. Forward one page.

17 If you go to question 23, question 23 asks a very
18 specific question to immigration benefits. And it says have
19 you ever given false or misleading information to any U.S.
20 government official while applying for any immigration benefit
21 or to prevent deportation, exclusion or removal. We've already
22 covered that the green card that he got was based on a phony
23 application. It was based on his wife's phony application
24 through Abraham Flam at Lakewood Bakery at 1501 Pine Park,
25 which is a private residence, not a business. And he answers

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Summation - Mr. Pastore

1 no to this question. And you know that he knew what the real
2 answer was because you heard Sam Salamon and David Grynsztajn
3 telling you how Rafi Brodjik was telling you he was very
4 excited he had this phony application being filed for him.
5 Simply put, there are several lies that Rafi Brodjik told and
6 that is why he's guilty of Count Four.

7 I want to turn now to Gulay Cibik. Gulay Cibik, as
8 you know, worked in the law firm and she met with different
9 clients, mainly Turkish clients. You heard from one of those
10 clients, you heard from Ilhan Altintas. What Ilhan Altintas
11 told you once again matches up with the documents, matches up
12 with what David Grynsztajn said about how the fraud worked,
13 matches up with what Gulay Cibik herself told the agent, what
14 she admitted to Agent Gordon that, yes, she would change
15 people's work experience, yes, she would get sponsors. Yes,
16 she would charge people more money when they needed sponsors.
17 And she knew that was wrong.

18 You heard that Ilhan Altintas was provided with a
19 sponsor, American Girl Fashion, and you heard from both David
20 Grynsztajn and Sam Salamon that American Girl Fashion was one
21 of Leo Teitelbaum's companies. And you remember Mr. Altintas
22 was being cross-examined about why American Girl Fashion was
23 chosen. Was this just a coincidence? And if we can bring up
24 that testimony. Ilhan Altintas is asked, by coincidence, of
25 all the sponsors you could have found, she happened to find one

D21LCIB3

Summation - Mr. Pastore

1 that you just happened to have experience in. What's his
2 answer? There was a mechanic also as a sponsor but we decided
3 on American Girl. American Girl was paying more taxes. That's
4 how it's been spoken.

5 Well, what do you know about Ilhan Altintas? You know
6 that he wasn't the only one who filed an immigration
7 application through the firm. You know that he also brought
8 relatives to file immigration applications through the firm.
9 And you know that because you saw the check, you saw --
10 remember Ismet Urkart -- you saw the check in the memo line.
11 And Agent Gordon actually found the A file for Ismet Urkart and
12 several of those documents are in evidence. And you've
13 actually seen those documents, 1504-4.

14 Now, what sponsor does Ismet Urkart get? If we bring
15 up 1504-4, Ismet Urkart, Ilhan Altintas' cousin, gets a
16 mechanic. That's his sponsor. And that mechanic has phony tax
17 returns, just like American Girl Fashion. And if you look at
18 the phony tax returns from the mechanic, it's 1504-4, if you
19 look at the phony tax returns from American Girl Fashion,
20 you'll see the mechanic reports \$1 million and the American
21 Girl reports much more, in excess of \$2.3 million.

22 Ilhan Altintas had no idea, testified he had no idea
23 what the taxes for the mechanic looked like. There was no
24 evidence that he had any idea what the taxes for the mechanic
25 actually looked like. When you see the documents and what's in

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Summation - Mr. Pastore

1 the A file, it's entirely consistent with what Ilhan Altintas
2 told you, that Gulay Cibik provided phony sponsors to him and
3 his family members that she said go with American Girl Fashion
4 because they pay more taxes. That's exactly what the documents
5 show. That's exactly what's in the A file. That's exactly
6 what happened.

7 And you know that Gulay Cibik did this over and over
8 again. You know she didn't file just labor based
9 certifications. You remember that David Grynsztajn and Sam
10 Salamon both told you about extraordinary ability applications?
11 And you heard from the CIS witness, Faith Campbell, how those
12 applications had certain benefits. You didn't necessarily need
13 a sponsor. You jumped to the head of line and you could
14 quickly get work authorization.

15 Now, how do you know that what they're telling you is
16 true, is really the way it happened? Because if you look at
17 Government's 3032, that's the series of checks that were taken
18 out of Leo Teitelbaum's house, the receipts that have different
19 people's names on them, and over and over again you see Gulay's
20 name. And Agent Gordon matched up the aliens who are mentioned
21 in those checks. She got their A files. You have them in
22 evidence. And what does it show? Over and over again those
23 aliens are submitted as extraordinary ability aliens. 1502-1
24 is an I-140 for Alvin Birkan, alien of extraordinary ability.
25 1503-1 is an I-140, alien of extraordinary ability for Nimet

D21LCIB3

Summation - Mr. Pastore

1 Bulbul. So over and over again you see files associated with
2 the defendant Gulay Cibik and their extraordinary ability
3 applications.

4 And you also saw that document 3040 that was taken
5 from defendant Rafi Brodjik's home and you saw that in that
6 document, it was a file folder and it had an I-140 for an alien
7 of extraordinary ability. And in that document, 3040-2, if you
8 go to 3040-3, you have a letter attention Ms. Gulay, alien of
9 extraordinary ability. A letter from Ms. Gulay ties it all
10 together, shows that she in fact was preparing multiple phony
11 applications for Ilhan Altintas, for these aliens, just like
12 Sam Salamon and David Grynsztajn told you. And that file was
13 recovered in Refeal Brodjik's home, a search of Refeal
14 Brodjik's home.

15 Ladies and gentlemen, in ways large and small, you
16 have seen that everyone in this fraud is tied together. You
17 saw how Nathan Schwartz assisted in getting funds which were
18 then transferred to Harold Tischler. You saw the emails,
19 3031-4, 3031-7, from Refeal Brodjik, in which he mentioned
20 Harold Tischler and which he mentioned calling Harold Tischler
21 and in which Sam Salamon told you he was threatening to call
22 the authorities. So once again you have an email from one
23 coconspirator, Refeal Brodjik, referencing what the other
24 people in the fraud were doing.

25 You've even seen an application in which one of the

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Summation - Mr. Pastore

1 companies was a Nathan Schwartz company and the second company
2 that the alien tried to get sponsored under was a Harold
3 Tischler company. The reason that these all come together is
4 because each of those four defendants -- Gulay Cibik, Refeal
5 Brodjik, Nathan Schwartz, and Harold Tischler -- provided
6 critical assistance to the fraud. Without their help, the
7 fraud couldn't have continued. Without their help, the fraud
8 couldn't have been accomplished.

9 And because each of them knowingly participated,
10 willfully participated in the fraud, as they have each told you
11 in different ways, Gulay Cibik through her own confession to
12 the agents, Refeal Brodjik through his own emails laying out in
13 detail what he did, Harold Tischler in forwarding that email
14 containing the labor information, and Nathan Schwartz in the
15 email communications with Sam Salamon, they have each shown you
16 they are guilty beyond any reasonable doubt. Thank you.

17 THE COURT: Okay. Let's take our break and let's come
18 back at 11:30. Remember still the rules still apply. Still
19 keep an open mind and don't discuss the case.

20 (Jury not present)

21 THE COURT: Okay. See you at 11:30.

22 (Recess)

23 THE COURT: Can we bring the jury back? Are we
24 missing somebody, are the lawyers missing?

25 MR. PASTORE: Mr. Gerzog and Mr. Gutman.

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Summation - Mr. Pastore

1 THE COURT: Somebody want to see if they're in the
2 men's room.

3 (Jury present)

4 THE COURT: All right, Mr. Donaldson. You may
5 proceed.

6 MR. DONALDSON: Thank you.

7 Good morning. First I want to thank you all for
8 hanging in there. It's been a long three weeks, I imagine, but
9 thank you all for hanging in there.

10 During my opening, as the Court said, and the
11 government has mentioned a few times, the openings are not
12 evidence, neither are closings. The evidence is what comes in
13 between that I guess. I call it a sandwich. It's the opening,
14 meat, closing; it's like a sandwich.

15 So but what was particularly important, one of the
16 things that was important about Mr. Pastore's summation was the
17 continued reminder that if you say something, it's not
18 evidence, but we can comment on your argument, we can. That's
19 what we can do. So if someone says something, then, you know,
20 we can respond to that because that's what we're supposed to
21 do. So as I do my summation, I'm going to respond to a few
22 things that are not evidence, but argument by the government to
23 support their case because, in my humble opinion, after hearing
24 this, some of it just doesn't make sense. It just doesn't add
25 up. So I'm going to go through it.

D21LCIB3

Summation - Mr. Donaldson

1 I want to start by saying, going through a little
2 story, small story that has some relevance to this case and
3 that is we as people sometimes say things -- we all do, we're
4 human -- and little lies regarding little things or things of
5 little importance, they occur. It happens. It happens often.
6 In our society as human beings, we accept that because little
7 lies about little things are, it's going to happen. White
8 lies, fibs, whatever you want to call them, they happen.

9 But big lies, however, that's a different story. And
10 for whatever reason, as human beings, as people, big lies we
11 give a certain power of credibility. And there's some kind of,
12 I guess, some kind of reason for that that we, for whatever
13 reason, as people give big lies this feeling of credibility.
14 And I think the reason why we do that is because we just don't
15 like to believe that people will tell colossal lies. There's
16 something inside us when someone tells you a huge lie, you
17 automatically ask yourself, why would he lie? That's just
18 human nature. It's like because you just don't want to believe
19 that someone would be as courageous or callous enough to tell a
20 big lie. And I think we would all agree with that. We don't
21 want, the goodness in it tells us that just can't be right. He
22 wouldn't do that.

23 But that's exactly why big liars exist, because of our
24 belief that they don't, and that's exactly why they get over on
25 us, because we just refuse to believe. Even in the face of

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Summation - Mr. Donaldson

1 mountains of evidence, we still are like, come on, that just
2 can't be. He wouldn't do that to me. He wouldn't lie straight
3 to my face.

4 I give you Altintas, Grynsztajn, and Salamon --
5 colossal, monumental liars and deceivers. And I, if you had
6 not heard this yourself, it would be hard for you to believe
7 that they lied that much or that they were liars that much. In
8 your normal day, you would be hard to believe that these people
9 would lie that much, that people exist that lie that much for a
10 living.

11 If you were outside the courtroom, you would say if
12 you heard that and knew that, you would state to yourself that
13 person should not be believed ever again because that's just
14 human nature. But we're in the courtroom and like the Court is
15 going to tell you, like they said in the openings and
16 everyplace else, don't leave your common sense at the door.
17 Bright it right on in with you. Don't leave your normal
18 experiences at the door, bring them in with you. And examine
19 those witnesses as you would examine anybody else knowing that
20 for some strange reason we just hard to believe that colossal
21 liars exist until they admit it. Then what? Then you have to
22 take them for what they are, colossal liars and master
23 deceivers.

24 Think about that every time you want to say Salamon
25 said this. Colossal liar, master deceiver. Grynsztajn said

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Summation - Mr. Donaldson

1 this. Colossal liar, master deceiver. Altintas said this,
2 colossal liar, master deceiver. It's almost like their title
3 now. Master deceiver Salamon said and finish the sentence.
4 Master deceiver Grynsztajn said and finish the sentence.
5 Master deceiver Altintas said and then finish the sentence.
6 That's what I want you to do because that's what they are.

7 Why am I saying that? I'm not just saying that
8 because that's their names. I'm saying it because that's what
9 they are. Altintas, a fraudster, a man who invited his family
10 members to commit fraud.

11 Now, I'm not allowing anything to be called little. I
12 want everything out there. I want you to think for a second.
13 What person that you know, what kind of person that you know
14 invites their family members to commit a fraud against the
15 United States of America? So add to him master deceiver,
16 master liar, and he invites his family to commit fraud against
17 the United States of America. That's the person that they want
18 you to rely on to convict Ms. Cibik. So every time you say
19 something to yourself, put those in front of it.

20 That wasn't it with him though. He then abandoned
21 that effort. Forget the fraud he was trying to commit to get
22 his green card. Forget the fact that he had a pending
23 application for two years and he claims that was good. He
24 decides to go the fraud way. He abandoned that effort and went
25 the fraud way and then abandoned that effort.

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Summation - Mr. Donaldson

1 He kept going, and this is where it gets really
2 interesting for Mr. Altintas. After leaving the David firm,
3 after trying that way, he then -- wait for it -- called United
4 States Congress people, men and women, picked up the phone,
5 called them, wrote them letters, got letters back, corresponded
6 with United States congressmen, was about to tell you their
7 names to tell them, hey, I'm a hardworking immigrant. My
8 family are hardworking people. We have not done anything wrong
9 in our life. We want to be American citizens. Help us out.
10 It's not fair we're not American citizens. We want to work
11 hard. We're good people.

12 You just spent almost 18 months committing immigration
13 fraud, and now you're asking United States congressmen and
14 senators and congresswomen to help you with your immigration.
15 So then we ask him: Did you tell them that? They didn't ask.
16 They didn't ask. Did you tell them that you were committing
17 immigration fraud three months before you sent them a letter
18 saying I need your help with immigration? They didn't ask. I
19 didn't think it was important, so I'm just going to go right
20 ahead and do this.

21 Which one of you all think any congressman or woman in
22 this country would help someone with immigration who just spent
23 18 months committing immigration fraud and then trying to get
24 their in-laws and family members to commit immigration fraud?
25 This is the kind of person that the government says is

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Summation - Mr. Donaldson

1 reliable. He's credible. Believe what he says because we're
2 the government and we're saying believe what he says.

3 We'll keep going. Not only did he lie and deceive and
4 connive against the American government three times, but then
5 he filed applications. According to the government, these are
6 really important applications because they just put one up on
7 the screen regarding another defendant saying, well, this where
8 he -- and if you don't mind, could you put up where
9 Mr. Altintas 1501 No. 6, please, this is his application. So
10 this is where he committed the fraud first time. He lied to
11 United States congressmen the second time. He wrote them
12 letters lying again a third time. And then he filled out a
13 form on section part 3 and 4, if you don't mind, part 3 and 4,
14 please, where he specifically said, I did not or have not
15 committed any kind of immigration fraud in applying for this
16 application.

17 Now, according to the government, that is very
18 important. As a matter of fact, they want to get someone else
19 convicted for a crime for that. But yet still they give you a
20 witness who's doing the exact same thing but they say believe
21 him. He's a good guy.

22 And what did he say when I asked him? Well, I didn't
23 fill out that form. Well, you signed it. According to the
24 government, when you sign a document, at the end of it, it's
25 yours. You did it. You must have done it according to the

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Summation - Mr. Donaldson

1 government. That's what they said for the last two hours. So
2 according to this document, since he signed it, he must have
3 read it. And since he read it, he lied again. So we have
4 lying four times. Let's keep going.

5 So I asked him, well, did you go to an interview for
6 this green card? Absolutely. Again, the government makes that
7 very important with another defendant in this case. He went to
8 his interview and the guy told him this was material
9 information. This is very important. Very important,
10 material. I asked this question. He says no. Or I believe
11 the government said if he omits to say something, that is a
12 lie. I believe that's what he said.

13 So, once again, where Mr. Altintas goes to his
14 interview and does not admit that he had been committing
15 immigration fraud for the last 18 months in an immigration
16 interview to become a United States citizen, that is a lie,
17 that is a crime, but yet still he's testifying. And we're
18 supposed to believe him because his credibility is great. He
19 has great credibility. He wouldn't lie to you. He would not
20 lie to jurors because -- exactly.

21 Not only did he lie before, but there are
22 inconsistencies in this record that, according to the
23 government, I believe he said, these inconsistencies are lies,
24 the government said. So we're going to repeat that. Since
25 these were inconsistencies, we're going to call these lies. He

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Summation - Mr. Donaldson

1 told this jury that he thought American Girl was real. That's
2 what he told you. That's what he initially said. That sounds
3 good because it makes him look like the victim. I thought it
4 was real. I went there to get my papers and I thought American
5 Girl was real and, you know, it looked real. I saw the
6 numbers. We're going to get to why that makes absolutely no
7 sense. But I saw it. It looked real, so that's why I did it.

8 Wait a minute. Later on in your testimony you say
9 well, no, when I got to the office, my wife wanted to -- they
10 wanted to change it so my wife can get a card and we wanted to
11 do the nursing home. And since I knew she wasn't at the
12 nursing home, at that time I knew it was fraud. That doesn't
13 make sense because if you're now saying that at the beginning
14 when you first got there you had a conversation with my client
15 about some nursing home, you knew then it was fraud because
16 your wife didn't work at a nursing home, you can't tell me back
17 in May or three meetings later on that when you saw American
18 Girl, I thought that was real, I was really going to work
19 there, I didn't think it was fraud, that doesn't make sense.
20 That means he's trying to mislead somebody. He's trying to
21 make himself a victim now. That means he lied to you already.
22 So it's not just that he lied during the fraud, it's not that
23 he lied before the case now, it's that he's lying during the
24 case.

25 Let's keep going. Altintas said that Ms. Cibik mailed

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Summation - Mr. Donaldson

1 the application to DOL. Ding ding ding ding. He said he saw
2 her mail it. Ding ding ding. That's a problem, details. The
3 devil is in the details. The DOL lady said the application
4 that we got regarding Mr. Altintas was emailed to us May 2006.
5 Now we got a problem because Altintas, the truth guy, the
6 credible guy, told y'all that I was in her office, I brought
7 her some experience letters, I saw her mail them to
8 immigration. Well, immigration said they got an email a year
9 later. So unless the mail somehow left New York City, jumped
10 out the mailbox, returned back to the office, got back on the
11 computer, waited a year and then pressed send itself so it can
12 be emailed, that's called a lie.

13 But this man didn't stop. He just didn't stop. He
14 just got worse. You know then he says, yeah, he helped out my
15 in-law, what's his name, Ismet. And she mailed it off too.
16 Details, folks. That's why I was sitting here and I was
17 listening I was like, okay, just keep talking because
18 apparently Ms. Cibik left there in May of 2006, according to
19 Altintas. I couldn't find her anymore. I gave her a check. I
20 canceled the check. I went back, she was gone.

21 Well, this document here, 1504 for Mr. Ismet, that's
22 1501. 1504 here says I-140 application. August 4, 2006.
23 Well, let's think about that for a second. So if Ms. Cibik was
24 there in May and left and this was mailed in August, unless
25 something happened, and there's no evidence that it did, that

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Summation - Mr. Donaldson

1 she was back there after May, back mailing stuff, that means
2 she didn't do this. The details is what's killing them.

3 And you know there's a letter here stamped August 1,
4 2006 from Jed Philwin.

5 MR. PASTORE: Sorry, Judge, it's not in evidence.

6 MR. DONALDSON: I'm sorry.

7 Details are what's the problem. That's why I kept
8 telling y'all they're going to do what they have to do. Wait
9 till I come next because we've got something to say. Let's
10 keep going.

11 We know the government has not met its burden because
12 Grynsztajn's credibility is completely irreparable. It's
13 completely done. Completely. You know why? Because he is
14 stateless. He has no place to be deported. He told you, I'm
15 stateless. They keep saying that's part of the cooperation
16 that he might be deported. Well, he's stateless. Deported
17 where? He has no fear of United States of America. Zero.
18 Zilch. The worst person that you can fight is somebody that
19 has no fear because they don't care. He has no fear of the
20 United States of America.

21 How do we know that? Because while talking to the
22 United States of America government in January 2006, he was
23 conning the United States of America because he didn't tell the
24 government while talking to them that at 17 Battery Place,
25 Alexksandra Urbanek was running his show, taking phone calls,

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Summation - Mr. Donaldson

1 getting money for him. He didn't tell him that either. He was
2 still conning them because after speaking to the government he
3 was recruiting aliens and immigrants to participate in the
4 fraud. You know why? Because he does not care about the
5 United States. He doesn't fear the United States.

6 It kept going because after speaking to the
7 government, he was extorting people for money. You remember he
8 wanted that \$25,000. He wanted \$25,000 that he said he earned
9 doing the fraud and he was going to keep that money. He didn't
10 care if he was talking to the government while he was doing it.
11 He was still participating in the fraud.

12 Now, what person does that? This is the United States
13 of America, the most powerful country in the world with federal
14 prosecutors, federal agents, and everybody else. And this man
15 say you know what, forget y'all. I want my fraud money. I did
16 it. I want it. I'm talking to you but I'm still doing this
17 fraud.

18 What made it worse is that while he was talking to
19 them from January to May, he was still going to work. Talking
20 to the government, telling them he's committing fraud, going to
21 work and committing fraud. There is something wrong with that.
22 That's a different kind of person now. We're talking about a
23 whole different kind of person. But let's continue.

24 He then pled guilty and they gave him this cooperation
25 agreement and the cooperation agreement has little paragraph in

D21LCIB3

Summation - Mr. Donaldson

1 the back of it. It's supposed to be teeth that makes you not
2 commit crimes, makes you not lie. In fact, his cooperation
3 agreement says if you mess up, if you violate, if you do
4 anything wrong, we will deport you. He's stateless. Where is
5 he going? We will put you in jail. Clearly, he's not in jail.
6 I asked him that. You will owe us a \$500,000 bond. He did not
7 care. You will face 20 years in prison. Still didn't care.

8 So the motive, the incentive, the thing that's
9 supposed to make him not commit criminal activity, he had in
10 his hand, he said, you know what, forget you, United States,
11 I'm going to commit more fraud. And he did that. And then
12 they come in and say, you know what we did, we made him pled
13 guilty. And you know what we did, we said if you do it again,
14 we'll give you 25 years. Well, guess what. He still, this
15 man, he's -- this is a whole different kind of person because
16 after pleading guilty, after facing deportation, after facing
17 20 years in prison, after facing \$500,000 bond, after saying
18 going to put you back in jail, guess what, none of that
19 happened. None of it happened.

20 So you know what he told them? You know what, I got
21 rich off my fraud and you did nothing. I bought houses off my
22 fraud and you did nothing. I kept committing fraud and you did
23 nothing. I'm going to lie to you jurors because, guess what,
24 you're not going to do anything.

25 As a matter of fact, this is how bad he is. He's

D21LCIB3

Summation - Mr. Donaldson

1 still doing immigration work. After all that, he came and said
2 two or three years ago I was doing immigration work. Stop for
3 a second. How is that, in what world is that okay? In what
4 world is that okay? You learn immigration by committing fraud.
5 You are a fraudster in immigration. You pled guilty and then
6 you had the nerve to go back and in business with somebody
7 named Mayer who you know is a fraudster. You pled guilty again
8 and give you the same cooperation agreement and the government
9 tells you, hey, it's okay, we don't mind if you do immigration,
10 just don't do it with Earl David.

11 Listen, something is wrong here. This is something --
12 he may go down in history as the biggest conner of the United
13 States of America that stepped foot in this building. How do
14 you do that? And what makes you think he's not going to lie to
15 you so he can get what he wanted, boldly and bluntly, I want
16 probation. What's he going to do, come in here and tell you
17 the truth?

18 Mr. Salamon, according to people a whole lot smarter
19 than me, a whole lot smarter than me, Salamon means a king with
20 a desire for women, a lust for greed, and a quest for material
21 things. Now, unless those people met this man 4,000 years ago,
22 they hit it right on point. They just hit it, they nailed it.
23 The king, he thinks he's a king. He is the king. Now, make no
24 mistake about it. Earl David began it, but Salamon ran the
25 show. He even said it a few times. He slipped up, if I don't

D21LCIB3

Summation - Mr. Donaldson

1 keep doing this, Earl David isn't going to work for me.

2 Really. We know who the boss is. We know who the boss is.

3 Salamon is the boss. Take that down. Earl David should not be
4 in the middle of the top. That should be Salamon. Salamon is
5 the boss. Make no mistake about it. If I don't pay him, he's
6 not going to work for me. That's not, that doesn't -- that's
7 Salamon is the boss.

8 Salamon thinks he's the king. And he has clearly has
9 some kind of lust for women because some strange reason he
10 thinks it's okay, yeah, I put up myself as a lawyer to lie to
11 women so I can whatever that means. He clearly is greedy as
12 all get up because his whole essence for a decade was money and
13 greed. He clearly had a quest for material things. Salamon,
14 what kind of car you got? I got a little Audi. Thankfully I
15 know about Audis. I got a little Audi. What does that mean?
16 A8? Yes. That's the big one, folks. That's the big body.
17 That's the big one. You know, \$225,000.

18 You know, he said, somebody asked him on cross, how
19 much have you saved? 50,000. Really. I thought you said 225
20 in that safe. Cash. In 2007, cash. Liquid. Most people
21 don't have \$225,000 liquid sitting in a safe in their house
22 because that normally means you got a lot more. And somehow
23 he's telling you all that I'm broke now. 2009, I'm broke. I
24 don't know where the money went. No one ever asked that
25 question. No one ever said either. But somehow all the money

D21LCIB3

Summation - Mr. Donaldson

1 is gone. I'm broke now, driving a Hyundai. Okay, King
2 Salamon. You're driving a Hyundai. You still have not -- I'm
3 going to get to it now.

4 Not one of their witnesses can tell you how much money
5 they made. How is that? They can tell you everything else but
6 they will not tell you how much money they made because
7 fraudsters never do. They lie to the grave. I'm not telling
8 them how much money I had because there might be a possibility
9 I got some left. Nobody remembers how much money they had.
10 Salamon, how much money you make? Maybe 200, 250, whatever you
11 say. Grynsztajn, how much money you made? 150, could have
12 went down. How much you made? I don't know.

13 That's almost funny. It's almost funny to be in a
14 fraud that long, to be that greedy, to be that concerned about
15 money, when someone says how much you make? I don't know. You
16 are a liar. You know. You just don't want to say it because
17 you don't want everybody to get mad and say, oh, you little
18 lying, conniving snake in the grass. Admit it. That's what
19 you are, that's what you are.

20 His testimony was fraught, and I mean all over the
21 place, with memory lapses and misleading statements. His
22 belief honestly was that he can outsmart the government and he
23 still believes that. This is a different kind of dude too.
24 That was his belief. I can outsmart the government. He pled
25 guilty, not in jail. According to him, he earned lots of

D21LCIB3

Summation - Mr. Donaldson

1 money. Don't know how much. But like him, like Grynsztajn,
2 the government doesn't scare him.

3 These are different types of men. These are type of
4 men you don't normally see in your daily lives. This man knew
5 the government was investigating that firm in January of 2006.
6 There's a reason I was asking those questions, because I wanted
7 you to understand the level and the depths that this man will
8 go to and the complete disregard he has for the United States
9 of America government. In 2006, in January, he says he knew
10 because Grynsztajn showed him a card with agent's name on it.
11 Ding ding ding. Did that stop that man? No. He kept going
12 with the fraud.

13 So what did he do? He moved to the law office. He
14 even told you, he slipped up. Called up Earl, we talked about
15 it, and tried to decide where we're going to do. So they went
16 to another law firm knowing that the federal government is
17 investigating. Did that stop him? No. You know why? He
18 don't care. But according to the government, they said about
19 20 times in their summation because Salamon said so, this must
20 be true. Because Salamon said so, it must be true.

21 I say to you again, he is no longer Salamon. He is
22 master deceiver, liar, thief Salamon. That's how you do it,
23 like mister, like judge, like ma'am, like king. He is master
24 deceiver, liar Salamon said this. That's his title.

25 He kept going after 2008. He went to 17 Battery.

D21LCIB3

Summation - Mr. Donaldson

1 Something happened there. Still being investigated. I don't
2 care, says Salamon. I need this money, says Salamon. Let's go
3 someplace else. He went to 125 Maiden Lane and kept doing it
4 knowing that the federal government is investigating. That
5 takes a different kind of person. Normally people stop. The
6 feds are coming, hide. The feds are coming, let's do something
7 else. The feds are coming, hide the stuff and get out of town.

8 Salamon, feds are coming, forget you all, I need this
9 money. Feds are coming, forget y'all, we got to find a
10 different way to get this money. The feds are coming, forget
11 them, we need this money. That's a different kind of person.

12 All that being said, that really shouldn't concern you
13 too much. The fact that he's doesn't care about United States
14 government, the fact that he doesn't care about one of the most
15 powerful law enforcement units in the world, that shouldn't
16 concern you as much. What should really concern you is that
17 Salamon is a deceiver and a planner. It just, I mean, he is a
18 planner. This is a different kind of -- hate to say dude, it
19 sounds so unprofessional -- but he's a different kind of dude.
20 He plans to commit crimes. He thinks about it first, plans it
21 out, does it, and gets a success from it. That requires
22 different kind of people to do that.

23 How do we know he did that? Every time there was a
24 problem, this man found a deceitful way to fix it and was
25 successful. From a minor problem to a big problem, it doesn't

D21LCIB3

Summation - Mr. Donaldson

1 matter to him. When the DOL employee got fired or left or
2 whatever happened to him, you know, they needed, him and Lipa,
3 needed to keep going. So they devised a scheme to cut, paste,
4 fool people, so they can keep that going. Was it successful?
5 Absolutely. He moved to 125 Maiden Lane. Why do that?
6 Because something happened at 17 Battery so he needed to find a
7 way to get to another office to keep going.

8 So what did he do? Not like normal people do, go sign
9 a lease, take out a loan, no. He devised a scheme to get 125
10 Maiden Lane and it was successful. I mean he's calculating.
11 What did he do for -- he didn't have enough credit, according
12 to him, and he didn't want to pay somebody \$5,000, so what did
13 he do? He started forging names to get leases. The man
14 calculates.

15 And this is when they keep saying Salamon said, so
16 this is how we know it's right. Salamon said, this is how you
17 know we should convict. Salamon plans. He plans to deceive.
18 He needed \$15,000. Of course he said it was his. So he
19 justified in his brain I need this \$15,000. It's my money that
20 I got from the fraud, so I need to find a way to get it. Lipa
21 said no. That's not good enough for me because I'm King
22 Salamon and when I want something, I get it. So I'm going to
23 trick the computer guy, have him make up me some checks, take
24 the checks to the bank, fool the bank and then get the money.
25 Problem, deceitful strategy. Solve problem, success.

D21LCIB3

Summation - Mr. Donaldson

1 Folks, these -- it's a different dude. It's a
2 different dude. And do you really think he didn't plan this
3 out? Do you really think he didn't know he was testifying? Do
4 you really think he wasn't told he had to come in here and talk
5 to y'all? Do you really think he wasn't talked to by the
6 government? Of course he was. And you do really think a man
7 that planned and deceived for nine years in a row didn't plan
8 and deceive when he came to testify before you? You think all
9 of a sudden he just changed? You think, like that old proverb
10 goes, scorpion goes on the back of a frog, goes across the
11 river. Scorpion stings him anyway. The frog is like, why did
12 you do that? I'm a scorpion. It's what I do. Don't get mad
13 at me because of my essence.

14 His essence is to deceive. I guess what they're
15 saying is the master deceiver walked into the courtroom, sat in
16 the chair, and said, you know what, I'm going to change my
17 mind. I'm no longer deceiving. You know what, great. Come
18 on. If you were in your normal day outside and this man walked
19 up to you and you knew what you knew about him, you would say
20 to him, dude, it's hard for me to believe anything you say
21 right now. Bring it to the courtroom.

22 I'm just going to put it out there and I hope I'm not
23 offensive, but somebody lied to you in this courtroom.
24 Unfortunately, this has to happen. Somebody lied to you in
25 this courtroom. And on cross-examination, small things,

D21LCIB3

Summation - Mr. Donaldson

1 cross-examination I asked Mr. Grynsztajn whether or not on his
2 first visit with Agent Gordon, you know, he was asked about
3 these tax things. It was a very simple question. Whether or
4 not somebody didn't have taxes, they could find somebody to go
5 get it for them. Very simple question. He said of course I
6 told her that.

7 Now, I knew on his first visits he lied to them. He
8 lied to them. He told them of course not. I don't know
9 anything about that. I have no idea where to get fake taxes,
10 fake tax forms, whatever. So if you believe that part that he
11 didn't know that, then that would mean you got to disregard
12 everything he said about taxes. So let's assume that he did,
13 which means he lied to them on that first day. But I asked
14 him, are you sure you didn't say that? He says I told them
15 that I did. She misquoted me. Agent Gordon, she misquoted me.

16 Agent Gordon got on the stand, she knew exactly what I
17 was talking about. No, no, no. I didn't misquote him. That's
18 what he told me. Okay. So wait a minute. That means you
19 can't have two. Either he's lying to you that his trial
20 testimony or Agent Gordon is. Well, let's keep going.

21 He also said, Grynsztajn, on direct that you know
22 what, I am certain, I am sure that Ms. Cibik gave Rafi money
23 during pickups. I'm certain of it. I'm sure of it. I asked
24 him, I tried to be clear. Are you sure of that? She did it.
25 I'm sure of it. Didn't you tell Agent Gordon you wasn't sure

D21LCIB3

Summation - Mr. Donaldson

1 that could have happened? Possibly, but you're not sure of
2 that. No, I'm sure of it.

3 Agent Gordon up on the stand. What did he tell you?
4 No, no, no. He told me that. He told me when I talked to him
5 that he was not sure that Ms. Cibik gave Rafi any money. He
6 gets in the trial and he tells you I'm sure of it, she gave him
7 money. That's two different things. Somebody is not being
8 truthful again. What did he say? No, I said I'm sure she did
9 it. Agent Gordon misquote me. Agent Gordon, I'm not
10 misquoting. That's what he said.

11 Altintas, you know, same thing. Altintas go up and
12 down with the money, the math part, because it really wasn't
13 making sense. I paid her all this money, I paid her \$6,000, I
14 paid her \$3,500, I did this, I did that. You also said that
15 50, 60 times, yes, I did. You also said every time you went
16 there you paid her \$500. I never said that. Well, he had to
17 deny that at trial because that would make no sense. That
18 would be \$25,000 roughly. That would make sense to the other
19 testimony that he only give her \$6,000. It wasn't making
20 sense. I didn't say that. You didn't tell Agent Gordon that?
21 No, I didn't.

22 Agent Gordon, did he tell you that? Yes, he did.
23 According to him, she misquoted me. Agent Gordon, did you
24 misquote him? No, I didn't. So now we've got a problem.
25 These are simple things, you think, right? The government is

D21LCIB3

Summation - Mr. Donaldson

1 going to say they're small things. Of course he may have
2 forgotten he paid her \$500 50 or 60 times. You know,
3 Grynsztajn, they may be insignificant. But what they are are
4 either boldfaced lies to you under oath or Agent Gordon is
5 misquoting three, four, five times.

6 I think even Salamon got up there and said something
7 different, oh, she's misquoting me too. Strange how that is.
8 These people never talked. Somehow they have the same answer
9 for that. She's misquoting me. Kind of strange. We'll get to
10 that later.

11 So now we have Agent Gordon with three, four, or five
12 or six misquotes or, on the other hand, option B, we've got
13 witnesses who are lying on trial directly to your face. That
14 kind of hurts their case because they want you to believe,
15 well, they're fraudsters doing the fraud. But when they came
16 in trial, they were honest. Clearly not. They lied during the
17 trial too or Agent Gordon was misquoted four or five times.
18 You choose. Doesn't matter to me. But either one is bad for
19 them.

20 I'll keep going. Not only do we know they didn't
21 prove their case because these witnesses are incredibly
22 incredible, excuse that redundancy, we know the
23 inconsistencies, as Mr. Pastore has indicated, he calls them
24 lies, I'll call them inconsistencies, the inconsistencies in
25 this case are rampant.

D21LCIB3

Summation - Mr. Donaldson

1 Grynsztajn on direct, on direct said that Gulay Cibik
2 created job offer letters. Grynsztajn on cross said he didn't
3 say that Cibik created job offer letters. It's direct, page
4 757, 758, Grynsztajn says he saw Gulay preparing job offer
5 letters. On cross, however, same question, do you recall
6 saying that you saw Cibik doing job offer letters? No, I don't
7 recall that. So it's fair to say she didn't do that? I don't
8 recall that. Now, how is it on direct you're saying I saw her
9 do job offer letters, but on cross, I don't recall. It was the
10 same day or the next day. I don't recall saying that. I don't
11 recall her doing that. Well, that's a problem now.

12 The little small things like Salamon saying he didn't
13 lie to Alex when on direct examination he did lie to Alex. I
14 have no idea who Alex is. Alex is some guy down in Florida
15 somewhere they talk to on the phone. The fact of the matter is
16 Salamon is telling you stuff just to tell you. When he says on
17 direct that I lied to Alex, then says on cross I don't remember
18 saying that, Grynsztajn lied to Alex. That basically means
19 he's telling you stuff, one, he doesn't know about; two, he
20 doesn't care; and, three, he's just telling you whatever he
21 thinks he can tell you to keep going. Let's keep going.

22 Altintas told you all on cross that he saw or knows
23 that Ms. Cibik did something for this guy named Ozgur because
24 he had to say that because, you know, he just had to because
25 that was part of his checks that he wrote out that we're going

D21LCIB3

Summation - Mr. Donaldson

1 to get to in a second, the checks he wrote out that says you
2 know what, Ozgur and my in-law went there too and Ms. Cibik
3 helped them out too.

4 Now, there's going to be a reason why that makes
5 absolutely no sense. The first reason is because he lied.
6 Because he told you all that you know what, Ms. Cibik did this
7 stuff for this Ismet guy, who we now know happened after she
8 left, but more important, he said that Ozgur guy did not
9 receive a sponsor from Ms. Cibik.

10 Now, I said to myself, I know I read some paperwork
11 that he told this government two days, well, January 16, that
12 Ms. Cibik also got sponsor letters for Ozgur too. Then he gets
13 up here and tells you all that didn't happen. You know why?
14 Because they didn't have a file for that. The story started
15 unraveling. Every single little thing that Mr. Altintas
16 started saying didn't make any sense.

17 And while the government keeps telling you all there
18 was proof of it, there was proof of it, there was proof of it,
19 there is none. The only proof they can really say is if you
20 take their words for it. That's why Mr. Pastore very
21 strategically said, you know what, their stories are
22 consistent. That's why it makes sense. They're not consistent
23 when it comes to Ms. Cibik. They're wholly inconsistent.
24 They're all over the doggone place.

25 Somebody should explain to me where the experience

D21LCIB3

Summation - Mr. Donaldson

1 letters are that they claim this woman made. I mean they're
2 nonexistent. I mean this case, when I said the case, you know,
3 unravels or it didn't make sense because it starts not to when
4 you start getting into the details.

5 (Continued on next page)

D210cib4

Summation - Donaldson

1 At first blush, when Mr. Pastore got up and said all
2 of that stuff, it sounded good. And when you walk up close to
3 the picture, you realize it is just a bunch of dots, it starts
4 not to make sense. So let's keep going.

5 They said that this -- this extraordinary building
6 file they found, means this Ms. Cibik prepared it. That's very
7 important, because I need you to hear what they said again.

8 He said that 3040 in this letter means that she
9 prepared it. What? How -- how do you get that leap? I mean
10 how do you get that leap?

11 Her name is in the file -- according to them, her name
12 is in the file, so that means she prepared it.

13 I want to tell you why that doesn't make sense,
14 because these checks that they so proudly put up during this
15 case tell the wrong story. The case -- forgive me if I'm going
16 longer than I wanted to, I have about 15 more minutes. The
17 case left entirely too many unanswered questions when it comes
18 to Ms. Cibik. And they tried to blush over it real quick.

19 You know, where is all of this money that she was
20 supposed to make? If they -- if you believe what they're
21 saying, regarding this fraud, if you believe the price points
22 that they are saying regarding this fraud, if you believe that
23 according to Grynztajn that she opened cases and had clients
24 and all of this stuff, you know, there is a price point for
25 that. You can't have your cake and eat it, too. You can't say

D210cib4

Summation - Donaldson

1 one thing, you have to embrace it. You have to embrace it.
2 Let's all get together, and huddle, and talk about it. Bring
3 it in. You can't have it both ways.

4 So the price point doesn't make any sense. It just
5 doesn't. Because they're saying, according to her statement,
6 it was \$4075. According to somebody else, \$6006 \$7015. If she
7 is the -- if she opened up all of these cases and if these are
8 all her clients, now, where is the money?

9 The price point doesn't make any sense. It doesn't
10 make sense that she would be the person, somehow the person
11 doing all of this stuff, but there is no -- no Audis, and no
12 BMWs, and no houses, and \$80,000 in cars and safes, and
13 \$225,000 in other safes. The price point doesn't make sense
14 from an economic point of view, it doesn't make sense. It just
15 doesn't make sense.

16 We talked about the money she doesn't have. They
17 brought up her account. And Ms. Agent Gordon got up and said,
18 well, she had 20,000, 15,000; deposit, deposit, deposit.
19 You'll get those accounts. What you should look at, as well,
20 is the balance of every month of those accounts.

21 She's some master immigration person. If they are
22 proving that she is a master immigration person, the accounts
23 that they are relying on should indicate that. So if she has a
24 monthly deposit of X, Y, Z and a monthly withdrawal of X, Y, Z
25 and the balance of those accounts comes out to \$2,000 every

D210cib4

Summation - Donaldson

1 month, or 3,000 then, you know what? That doesn't make the
2 price point that they are claiming is used in this fraud. It
3 just doesn't. Common sense.

4 We have phone records all over the place, but none
5 showing calls to her.

6 Where is this computer that she allegedly worked on
7 that supposedly does these 989s and sends them out to DOL. You
8 know why that is super important? It is super important
9 because the DOL lady, the expert lady said, when I asked her,
10 hey, could you tell me who sent those application to us? Sure
11 we can. Can you tell me what computer they came from? Sure we
12 can.

13 Well, wait. So, time out. You brought the e-mail guy
14 in who did all of the e-mail stuff. Of course no e-mails from
15 my client. Brought the e-mail guy in. Got the other person
16 coming in. Got all of these snapshots of phone calls and all
17 of this other nice, good computer stuff. Okay, where is the
18 computer that says that that woman sent off these 989s that are
19 required to be sent off the e-mail.

20 The one that they had that she was identifying that
21 said May 2006, what computer did that come from? I don't know
22 either.

23 The unanswered question about Altintas is very
24 significant, because his math is just bad. He initially said,
25 on page 472, if you want to look, that aside -- that means

D210cib4

Summation - Donaldson

1 aside, away from -- aside from the 3500 given to Cibik, he paid
2 Cibik by cash and check. So now we know, or we don't know,
3 depending on which side you take. You can take the lie or the
4 misquotes, that he supposedly gave her \$500 or \$600 every visit
5 for 50 visits, okay. Page 47 says aside from the 3500 given,
6 the initial check that was made out to somebody else, he paid
7 Cibik by cash and check. That would mean -- and he also said
8 he gave her 6,000 total. So that would mean, then, that aside
9 from the 3500, there is 2500 somewhere. Okay.

10 Page 493, though, says, oh, well, you know what? I
11 actually gave her 3500 and a subsequent meetings I gave her a
12 thousand each. Okay, well now you're someplace else. First it
13 was 500 every visit. Then it was, aside from 3500, I gave her
14 cash and checks. And now we're at a thousand each. I mean we
15 are -- the lies are starting to multiply.

16 On page 496, he realized his math was messing up and
17 says that the \$6,000 now is including the first two checks.
18 It's all over the place. It's all over the place now. So the
19 question needs to be, well, what happened. If you can't answer
20 that question, then how can you say she's guilty.

21 Well, let's continue. We know that handwriting is
22 important in this case. Not because I'm saying it. Not
23 because one of them are going to say it. But because they are
24 saying it now. They say, right now, that handwriting is
25 important.

D210cib4

Summation - Donaldson

1 Could you please put up 3104-1, please. We know that
2 it's important for a number of reasons. First, it's important
3 because Agent Gordon told you that when she interviewed
4 Mr. Salamon, she got from him a handwriting exemplar, a
5 handwriting sample to determine what his handwriting is. Why?
6 So she can compare it.

7 We also know that handwriting is important, now,
8 because the government has told you, loudly and clearly that,
9 you know what, these are different, the inks. So that's how we
10 know that different people did it. And the handwriting is
11 different. So that means, in this initial form to come to the
12 office, we know that the alien or immigrant does one part and
13 the employee or whoever is working that case does the other
14 part. So now we know that, because that's what they are
15 saying, that's their theory.

16 Well, how about this. In this one, and this one, and
17 this one -- and that's too far, but those two over there, too,
18 please identify, somebody, any initial opening document in
19 handwriting that that woman did.

20 According to Mr. Grynsztajn, I know her handwriting.
21 I asked him on direct -- on cross. Do you know her
22 handwriting? Yes, I do. Show me the handwriting on the file.
23 You've got them all in front of you. He said he looked through
24 all of them. He looked through all of them. So these are
25 opening documents with separate handwriting, according to them.

D210cib4

Summation - Donaldson

1 So which one of these opening files, documents, has Ms. Cibik's
2 handwriting? Feel free.

3 They didn't bring that to you. You have to ask
4 yourself why. They had handwriting -- the judge is going to
5 tell you, oh, the investigating techniques that they use are
6 their own. Great. I agree. But you chose to do that. You
7 chose to get a handwriting exemplar, you chose to make it
8 important. Since you chose to do it, you chose to make it
9 important. Show me which one of those opening documents has
10 been identified as having Ms. Cibik's handwriting on it.

11 No. There is no unexplained wealth. They have not
12 told us what happened. And their theory of the case makes
13 absolutely no sense.

14 THE COURT: Five minutes, Mr. Donaldson.

15 MR. DONALDSON: Yes, ma'am.

16 The theory of the case also defies common sense. On
17 one event, Grynsztajn came in and tells you I came running from
18 1501 Pine Street. Some client came running in and said, hey,
19 there is no restaurant there, there is a house there. So I
20 said, Grynsztajn, who was that? I don't know. Was it your
21 client? I don't know. Well, your looking at him. I don't
22 know. Grynsztajn, he is popping in and out of the office. And
23 that's how he knows that or, coincidentally, hearing -- strike
24 that, that's the wrong conversation. Two crazy conversations.

25 Grynsztajn downstairs also hears my client running

D210cib4

Summation - Donaldson

1 downstairs, I made \$100,000, I made \$100,000. Does that make
2 any sense to you? Or Grynsztajn telling you I know that
3 Ms. Cibik knows how to do 989 forms, because I was popping in
4 and out of the office one day, and I saw Earl David training
5 her. But the problem with that is why I'm telling you this is
6 bad. Because the 989 started, when? In 2005. Earl Davis was
7 supposedly gone. Well, whoa. See? Whoa, I'm popping in and
8 out of the office, seeing him train her doing 989 forms. Well,
9 he is supposed to be in Canada.

10 There are a number of issues here that are
11 significant, in my opinion. There are a number of issues that
12 are important, in my opinion. Grynsztajn was trained for
13 several months. And he tells you all I don't do 989s, because
14 I was not trained to do it. He knows how to -- the form, but
15 he can't do that one. He is lying to you.

16 The checks, in this case, could you please put up --
17 strike that. The checks in this case, exhibit 700, I want you
18 to look at that. They are Ms. Cibik's checks. But their
19 handwriting on each, or most, of those checks is different.

20 Now, somebody needs to answer that question. I
21 mean -- and I'll write numbers. Pages 105, 119, 120, 121, 123,
22 124, all have conspicuously different writing for Earl David.
23 Number 114 and 137 are suspicious in that the name is Sam
24 Salamon and Leo Teitelbaum. But Agent Gordon told you
25 Ms. Cibik didn't know their last names, so how is she writing

D210cib4

Summation - Donaldson

1 that check? Pages 100 and 116 look nothing like each other.
2 Number 94, 125 and 128 all have different YM Pollacks. Numbers
3 113, 222 and 228 are all different regarding Mazel and Bruicha.
4 100, 116, 137 and 139 all have different handwriting than any
5 other check in the whole batch. So we have checks on her,
6 writing on her checks that have about 17 different
7 handwritings. And they want to say that she wrote these checks
8 out and that shows that she did that.

9 Laypersons, you can look at them yourselves. You will
10 see that all of those checks I just gave you have extremely
11 different handwriting on them which means, according to them,
12 if the handwriting is different, that person didn't write it.
13 If the handwriting is the same, that person wrote it.

14 Well, since the handwriting is different in all those
15 cases, guess what that must mean, according to their argument?
16 She didn't write it.

17 As Mr. Pastore so eloquently stated, as I said
18 earlier, look at his arguments look, at our arguments, look at
19 everybody's arguments. They claim she initially -- they say
20 she opened cases. But there is no proof of that. Initially,
21 they said she wrote experience letters. There is no proof of
22 that. Initially, they said she wrote job offer letters there.
23 Is no proof of that. And they don't have any proof that the
24 computer, if she was on a computer, sent any of these so-called
25 989 letters.

D210cib4

Summation - Donaldson

1 So, because in our opinion of these incredible
2 witnesses, these unanswered questions, these inconsistencies,
3 and the fact that you have Mr. Salamon, the boss, Grynsztajn,
4 the liar, Altintas, just a fraudster. And you have Ms. Cibik,
5 lives in an apartment, didn't own a car, worked two jobs
6 according to them, for 18 hours. No fraud attached to her
7 green card, according to the evidence. No files come from her
8 home. And 3607 says, part of it: And one more thing in
9 paragraph 9, the 10,000 you took from Gulay, and got me
10 involved. You cried to her. And you were on the streets and
11 took advantage of her feelings for you, and asked me to back
12 your story. Not only that, but before she left the country,
13 you once again tried to get more money from her. Your
14 justification to me was she doesn't need it. Does she not work
15 hard for that money 18 hours a day, two jobs? That was sent
16 sometime in May 2006.

17 That last check, 700, one of the last checks, 700, has
18 a 10,000-dollar check to somebody. April 2006. Ask yourself,
19 think about this stuff. It's clearly the evidence put forth
20 against Ms. Cibik was insufficient to prove her guilt.

21 The evidence, the witnesses, were incredible,
22 factually, and almost as a matter of law. I'm asking you
23 because Ms. Cibik does not belong on that top row, that second
24 row, that third row, she doesn't belong on that board at all.
25 I'm asking you to find her not guilty.

D210cib4

Summation - Donaldson

1 Thank you.

2 Your Honor I apologize for going two minutes over.

3 THE COURT: Forgiven.

4 Mr. Greenfield is going next. I can tell because he
5 got up.

6 MR. GREENFIELD: Good afternoon, ladies and gentlemen.

7 I want you to know how important you people are to
8 this process. You may have noticed that when the judge comes
9 in and out of the courtroom, we all stand up. And when you
10 people come in and out of the courtroom, we all stand up.
11 That's a tradition that we have in order to reflect the true
12 respect that we have both for judge of the law and for the
13 judges of the facts. And, you, ladies and gentlemen, are the
14 judges of the facts.

15 Now, the judge has already told you some of the law,
16 and she will tell you more. And your duty as jurors is to
17 accept the law as she gives it to you. She will tell you,
18 again, as she has about the presumption of innocence, the fact
19 that the burden of proof is on the prosecution. And it never
20 shifts at any time to any defendant. No defendant is required
21 to prove anything.

22 She will tell you that guilt is a personal concept
23 that, even though there were four people on trial here, and one
24 trial, there are really four trials you need to reach a
25 conclusion as to each defendant individually.

D210cob4

Summation - Greenfield

1 Each defendant is entitled to be judged on the proof
2 against him or her based on his acts, his deeds, and his
3 intentions. This is actually my only opportunity to address
4 the evidence. The last time I spoke to you there was no
5 evidence before you. So I intend, in the next few minutes, to
6 go over those issues that were pieces of evidence that I think
7 are significant and mandate your attention.

8 Before I do that, I would be remiss if I didn't thank
9 you, and I mean that, for giving three weeks of your lives to
10 something that -- first of all, we told you it was going to be
11 two weeks -- that's very important, not only to the system that
12 we operate under, but to each of these defendants, and to the
13 lawyers, both the defense lawyers and the earnest lawyers for
14 the government. Everyone here is seriously involved and
15 concerned about the outcome. And I know you will give
16 your strict attention and your real attention to the law and
17 the facts before you come back with a verdict.

18 Now, let me talk about the case.

19 The government presented two witnesses who claimed to
20 know, firsthand, what Harold Tischler did, and what he
21 intended.

22 One is Sam Salamon, who all -- I don't understand how
23 anybody could argue that Sam Salamon's not a liar. And the
24 other is David Grynsztajn, who is also a liar. And that's a
25 harsh word. But it's just a plain fact. Both of those

D210cob4

Summation - Greenfield

1 witnesses are what we call cooperating witnesses. They have a
2 real interest. Not some theoretical interest. They have a
3 real interest in satisfying the government so that the
4 government will advise the Court at the time of sentence that
5 they did the right thing, the good thing, and they should be
6 treated fairly. Fairly, for them, that is.

7 Now, Sam Salamon was, I think, a very interesting
8 witness in the sense that he actually had the -- he was, I
9 submit to you, smug. He was arrogant. He had no remorse. And
10 he did distinguish between remorse and being sorry that you are
11 caught. And he had the ability, or at least he thought he did,
12 to make it up as he went along. Right from the witness stand.

13 I'll give you a perfect example of that. He testified
14 on direct examination that he made no money from denials. And,
15 therefore, he told Harold you don't get any money for denials,
16 either, that is just the way it is. And that struck me as odd.
17 I mean the -- and I asked him on cross-examination, well, don't
18 you get paid for opening these cases? Don't you -- you know,
19 you get paid in advance, before there is even a decision.

20 And he said, on the run because it is nowhere,
21 anywhere else, he didn't tell it to any agent, he never said it
22 before. But he said it right from there. Well -- well, I have
23 a retainer. My retainer says that if they don't get an
24 approval, I have to give them back 80 percent of the money.

25 Okay. So when -- when the agent, Gordon, testified,

D210cob4

Summation - Greenfield

1 and the government stipulated to an exhibit, HT-12, it will be
2 available to you, Agent Gordon said this is a retainer, she's
3 seen hundreds of them, maybe thousand -- I don't know, she's
4 seen a lot of them. They are all essentially the same. She
5 never saw one retainer that said, well, if you don't get an
6 approval, we have to give you back 80 percent of the money.
7 It's just a lie he made up right on the spot because he --
8 anticipated when he -- when he was being forced by the truth to
9 say something he didn't want to say that he didn't think would
10 be helpful -- I'll point out a few other things, but there were
11 many.

12 So, he never gave back any money. In this case, in
13 HT-12, Sagundo Gomez gave him \$10,000 to start, and owed him
14 2,000 upon the labor approval. And there is not a word in here
15 about, well, if we don't do our -- do what we promised, we'll
16 give you back your money. Or 80 percent of it. It's just not
17 there. But he said it was. He had no problem saying it was.

18 Do you have any doubt, whatsoever, that Sam Salamon
19 masqueraded as a lawyer, to others -- besides women he wanted
20 to go out with. I mean the guy -- did he really have a --
21 we've not seen a picture of the sign at 17 Broadway, but I
22 don't think that it said plumber. I mean you have people going
23 up there who want green cards who think they are seeing a
24 lawyer. I don't think it said Fix Anything Plumbing Company,
25 okay.

D210cob4

Summation - Greenfield

1 You saw his business cards, they are in evidence too.
2 I'll tell you the number in a second. And those business
3 cards, he argued, right again, right just off the top of his
4 head he argued, well, they don't say I'm lawyer, you know.

5 I wanted to show him my card, but I was afraid he
6 would give me a call one of these days, so.

7 But look at his business card, here it is. Law
8 offices of Jake David. And above, he puts his name above the
9 lawyer, Sam Salamon, with his cell phone number, and his phone,
10 and he his e-mail, sammy@110wall. It doesn't -- I mean he is
11 not passing himself as a lawyer off. As a lawyer, right?
12 Please.

13 You know, I mean -- that was, to me, really, that was
14 his downfall as a witness, was that he couldn't bring himself
15 to admit the truth when he really -- you know, that wouldn't
16 have hurt him so much to say, you know, sure, I passed myself
17 off as a lawyer, you know. He is admitting to taking terrible
18 advantage of people in need, just couldn't bring himself to
19 admit that. Thought he was smart, you know. And I know I bit
20 a couple of times, had a -- thought I was having a battle of
21 wits with the guy which I shouldn't have done. He got checks,
22 he got two checks made out -- there is another exhibit, they
23 are all available to you, I'm not going to waive every one in
24 front of you.

25 There were two checks made payable to Sam Salamon.

D210cob4

Summation - Greenfield

1 And on the bottom, it says lawyer. So what did that alien
2 think they were doing when they wrote that check to Sam
3 Salamon, lawyer. He made it up on the fly. He said, well,
4 that was, I forget the name of the woman who worked for him.
5 He says, I don't know what she did, I was not there, I didn't
6 tell her, you know. Come on, man. Just admit it.

7 And take a look at, if you would, at government
8 exhibit 3616. It's the floor plan for -- I think it was the
9 Maiden Lane offices, the F. It's classic. The guy gave
10 himself the corner office. Not only was he a lawyer, he was
11 the senior partner in the law firm.

12 Now, in this case, Mr. Pastore talked -- he told you
13 about all of these applications. He had them up. And all of
14 the lies contained in these applications. The only thing he
15 didn't mention, you know, was what I think is like the elephant
16 in the room. None of those are signed by Harold Tischler.

17 Now his answer to that is, well, Harold is getting
18 paid not to sign them. Although he is there, according to the
19 witnesses, enough times to sign them. There is not one --
20 nobody in this case from the prosecution side can identify
21 Harold Tischler's signature. There is not a single claim that
22 any particular signature is his. Although, I submit to you, if
23 you look at the exhibit that relates to his application for a
24 post office box, that's -- he had no reason to send somebody
25 else there. That is not really related to the law firm. You

D210cob4

Summation - Greenfield

1 look at that signature. You compare. There are 50 different
2 signatures. When they got to the lease which Sam Salamon says
3 he paid \$5,000 to Harold Tischler, there is no record of that.
4 There is no evidence of that, whatsoever.

5 When they get to that lease at 17 Battery Place, the
6 lease, by the way, and the premises that he is telling -- I
7 guess it was one of the other defendants in an e-mail: I lost
8 that lease, I don't have that -- I don't have that place
9 anymore. And then two weeks later he is there. I mean he
10 admits that he forged Maiden Lane, he admits that Harold
11 Tischler's signature is not on the guaranty for 17 Battery
12 Place, although he claims that Harold Tischler is on the lease
13 for 17 Battery Place. You people look at the signatures. They
14 didn't even bother to make the forgeries the same on the
15 same -- on the two documents. In other words, they both ended
16 up going to the landlord of 17 Battery Place. And you look at
17 them, there is no effort to make the lease signature look like
18 the guaranty signature. There is no effort, when they send
19 files to the government, to have one signature look like
20 another signature. They are just -- it sounded to me like
21 there was a conga line there, you know, sign Harold's
22 signature, go to the back of the line, somebody else will sign
23 it, go to the back of the line. They are all different.

24 Here's one that's jumped out at me. I think it was
25 either exhibit 202 or 222. In either event, it was the exhibit

D210cob4

Summation - Greenfield

1 that related to the subpoena that was mailed to Harold Tischler
2 at Vintage Builders, I think, in 2006.

3 On direct examination, Mr. Salamon said that Harold
4 brought that subpoena in, that he -- he, meaning Mr. Salamon,
5 faxed it up to Earl David. I say "up" because Canada is up
6 from Manhattan. Faxed it up to Canada. Earl David wrote a
7 response, faxed it back to him and he said on direct: And I
8 mailed it.

9 Okay. Except, on cross-examination, well, I -- I
10 thought, boy, that doesn't look too good for Harold. But on
11 cross-examination, you look at the cover letter. It is clearly
12 not written by a lawyer. I mean a lawyer knows that this is
13 the Southern District court of New York. You look at the
14 letter. The grammar is off in one or two places. It is just
15 clearly not written by Earl David or any other lawyer. And
16 it's mailed at a post office in Brooklyn. It is -- it's an
17 express post office received in Brooklyn. How does that
18 happen, Mr. Salamon. And he started -- I actually saw him, you
19 can see the wheels turning, trying to figure something out. He
20 was a little off on figuring out. So I made a suggestion to
21 him maybe one of your employees who lived in Brooklyn took it
22 home and went to the post office. Yeah, yeah, that -- that
23 could be, you know. Maybe. Or maybe I said they just decided
24 that they didn't like the post offices in Manhattan, there are
25 not enough of them, so they went downstairs and went over to

D210cob4

Summation - Greenfield

1 Brooklyn. Maybe he is down in lower Manhattan there, 10
2 minutes you can get to Borough Hall and find a post office.
3 Yeah, that's a possibility. Or maybe, just maybe, Mr. Tischler
4 got that, responded to it in the manner that an unsophisticated
5 person would send it back to the government, and never heard
6 another word about it. Didn't know whether he had satisfied
7 them or not. He wrote them a letter: I'm the sole
8 shareholder.

9 And I think I -- the lease at 17 Battery, I have
10 covered. But then there is a lease at Maiden Lane which he
11 admits two things about Maiden Lane. Mr. Tischler was never
12 there. He leased it in the name of Vintage Partners. Don't be
13 mistaken here, there was a search warrant served at Vintage
14 Partners, that's 110 Wall Street, okay. That's got nothing to
15 do with Harold Tischler. That name was stolen from him by Sam
16 Salamon, and used to lease 125 Maiden Lane. It's got nothing
17 at all to do with Harold Tischler.

18 Now, a whole bunch of companies were mentioned in
19 Mr. Pastore's summation. One that he didn't mention was L&T.
20 I have a feeling that may be they were holding back on that one
21 with you, just to remind you. L&T is one of the -- is a
22 Delaware corporation that Mr. Salamon conceded to me, he told
23 the agents Lipa Teitelbaum had opened, without Harold
24 Tischler's knowledge in Delaware. And it's the same for New
25 York Capital, it's the same for State to State, it's the same

D210cob4

Summation - Greenfield

1 for BSD. There is no -- and I asked Agent Gordon. There is
2 not a single document that was not created by someone other
3 than Harold Tischler, and was created only by people within
4 this law firm, that connects Harold Tischler to any of those
5 companies.

6 Agent Gordon got records from the Department of State
7 by serving the subpoena, she could have got records for those
8 companies. And, believe me, I submit to you, that if Harold
9 Tischler's name as the filer or his address as the business
10 office, if they were in those records, we would have seen them.
11 They are not there. They were not there. It's a circular
12 farce. They start out by using his name with L&T. And by the
13 way, the application I want you to look at, the L&T, the
14 Delaware company that formed L&T, I want you to look at the
15 hard copy of that. You'll see that there is information in
16 there that the government will argue, or might not, I suggest
17 will -- which will say this is different handwriting, this is
18 Harold Tischler. Look at that document. It is a classic cut
19 and paste. It is just a little off. Instead of a single line,
20 there is a little bit of a double line. It's a cut and paste.
21 I didn't make up the term cut and paste in this case,
22 Mr. Salamon said it six times before I ever got up to question
23 him.

24 So I suggest that as far as the leases are concerned,
25 the 17 Battery Place and Maiden Lane, just throw them out.

D210cob4

Summation - Greenfield

1 There is no evidence that connects Mr. Tischler to that.
2 Except the word of Sam Salamon. There is no -- I mean I
3 actually reminded him that, oh, you said that he signed it
4 under the SDR, and you gave him \$5,000. Where? Where is it?
5 Where is the check? Where is the cash? Where is the notation?
6 Where is the paid Harold. You know, whatever it is. Where is
7 the proof. Please, now, I mean proof beyond a reasonable
8 doubt, that's all coming from Sam Salamon. So, as I said about
9 these corporations, I mean the agent told you Vintage Builders,
10 Vintage Partners, those are real companies. They filed tax
11 returns. They had checking accounts with real business going
12 on in them. The 16th Street address, the realty company, I
13 don't know, I'm drawing a blank on the number, 1658, is it,
14 16th Street. You saw pictures. And there are pictures in
15 evidence, both from the government and myself about what goes
16 on in that building. That's a small office building.
17 Mr. Tischler's phone number is on offices for rent. There are
18 lawyers in that building. Vintage Builders are in that
19 building. Millennium is in that building. There is real
20 business going on. Not some company that was formed by Lipa
21 Teitlebaum, just so somebody could get a green card.

22 So let me address the -- I don't know if this is it,
23 but I know when Mr. Pastore was talking to you, he had piled up
24 all of these: What about all of this mail, okay. Take a look
25 at the -- you know, Mr. Tischler, he must have known from all

D210cob4

Summation - Greenfield

1 of this mail.

2 Well, take a look at the indictment. It alleges a
3 conspiracy that started in 1996 and ended in 2009. Now, I
4 don't think there is any claim that Mr. Tischler was involved,
5 in any way, earlier than let's say 2004, I don't know. Let's
6 say that -- well, you know from the document that I'm going to
7 reference later, that he is still getting mail from the
8 government on this stuff. You know, and now we are in 2013.
9 But let's say that there is a five-year period that this mail,
10 all of this mail -- and I don't know how many pieces they say
11 there were. Maybe there were -- maybe they say there were 150
12 pieces of mail, maybe they say there were 175, maybe 200. I
13 told you in my opening statements, and I'll tell you again,
14 now, this mail didn't show up on a particular Tuesday in 2007.
15 They -- the post office didn't back up a truck and dump 175
16 pieces of mail in Mr. Tischler's mailbox. This is mail, if he
17 got 150 pieces over five years, well, you know, that's -- I did
18 the math somewhere, let me find it. It comes out, if it's 150
19 pieces, that's about two and a half, less than three pieces a
20 month; if it's 175, it's a little more than three pieces a
21 month; if it's 200, it's less than four pieces a; month. And
22 if it's 300, which I don't think it is, it's about one a week.
23 And common sense, and I think that the actual mailings will
24 show you that it doesn't start out -- they make an application
25 in 2004, and takes the government, Department of Labor, a

D210cob4

Summation - Greenfield

1 little time to respond.

2 So the first letter doesn't come right away. And then
3 the following letter doesn't come the next day. You know,
4 these things, as it builds up, as it's being taken advantage
5 of, as they are using his companies without his knowledge to
6 make these applications -- because every application is money
7 to them -- that that approval is a red herring here, you know.
8 He is making money from -- this Mr. Gomez on this exhibit, they
9 are making \$10,000 just to say, okay, we'll file an application
10 for you. Every one of those applications is money. None of
11 them need Mr. Tischler to do anything other than to them have
12 somehow obtain information from Mr. Tischler.

13 Have they obtained that information from Mr. Tischler?
14 I think the four witnesses that were called are seriously
15 misunderstood by the government. I didn't call those guys to
16 say that, oh, Harold Tischler sponsored me; or that he paid me
17 a W-2 income. Those guys testified to the fact that, in their
18 presence, Harold Tischler was the kind of guy who wanted to
19 give people, in need, work. Sixty people, 52 people on work
20 release. Cora Thomas said 20 people over the course of a year
21 and a half Harold Tischler was out there hiring people in the
22 projects because that's something that he felt strongly about.
23 He had a history of that and that had nothing to do with
24 anything to do with any conspiracy, or fraud, or immigration.
25 That is just something that he wanted to do. And there's

D210cob4

Summation - Greenfield

1 plenty of proof for you to conclude that that is something that
2 he did from the goodness of his heart.

3 Now, he is approached by Sam Salamon, who conceded
4 that initially he was looking for workers, that is what he --
5 he gave me about Harold Tischler, that at least at the outset
6 he was looking for workers. In order to agree -- and Harold
7 agreed, I'll sponsored some people. He never agreed to
8 sponsored 150 people or 175 people. Over the course of the
9 years between the substitutions and the stories that Sam told
10 him, yeah, he agreed to -- he expected to find work for people,
11 if they would supply him with workers. He never had any idea.
12 And they put into evidence, as helpful -- they, meaning the
13 government -- something which to me it seems is Mr. Tischler's
14 defense being stated to you. What are you nuts? That's when
15 this guy, Salamon, is at the same time that he is meeting with
16 the government and giving, I say false evidence against Harold
17 Tischler, at the same time, he is asking Harold Tischler to
18 lend him \$200. And he is angry at Harold Tischler. Because
19 Harold Tischler I guess out of being timid, or just being a
20 nice guy said, okay, I'll give it to you, but didn't show up to
21 give it to him. He is saying how dare you. Salamon is saying
22 how dare you. And Tischler writes him back, what are you nuts,
23 you lied to me, you made me wait and I -- there is a reason
24 that it went up there, the arguments that he had. Complaining.
25 What is all of this stuff for, why am I getting all of these

D210cob4

Summation - Greenfield

1 letters. It's 2008, 2007, 2006, the letters start coming. And
2 David Grynsztajn heard Sam schmoozing soothing sponsors. David
3 Grynsztajn heard people call up and complain to Sam: I agreed
4 to sponsor one person, I got 30, I got 40 letters back. What's
5 going on here? And he heard Sam giving them some kind of
6 story, don't worry about it, it's only a job offer. He was
7 good at that. He is pretty quick on his feet, or he thinks he
8 is right here in the courtroom. You can imagine how he is out
9 of the spotlight when he is in control.

10 Now, the four witnesses that I called, they were
11 honest, decent guys. They have known Harold for 15 years. Do
12 you think that Harold Tischler would have brought Alan Ashby to
13 Sam Salamon if he didn't think Sam Salamon was a lawyer. Do
14 you think that Alan Ashby would come into this courtroom and
15 lie under oath and say that Sam told him he was a lawyer, that
16 he assumed that Sam was a lawyer, that's -- it's just not --
17 it's not so. I mean common sense tells you that it was honest,
18 straightforward testimony.

19 So, what I say you should draw from one of the --
20 David Grynsztajn was really, he -- if you think about it, did
21 not have much to say about Harold Tischler. But he, for some
22 reason, was able to identify him in the courtroom, having said
23 he hadn't seen him for 7 years and had not been able to
24 identify him from two photographs that are in evidence;
25 exhibit 1, HT-1, that, you look for yourselves, that look like

D210cob4

Summation - Greenfield

1 Harold Tischler. He could not identify him. They gave him
2 that picture twice.

3 And, Mr. Fishback, Harold's friend of 22 years who
4 testified that he is a supertrusting guy, unusually so,
5 identified a picture of Harold as he looked in 2004 or 2005,
6 I'm not sure; around that time. And he looks like Harold
7 Tischler. Instead, Mr. Grynsztajn came into court and said
8 that he recognized Harold Tischler when they showed him this
9 picture. Doesn't look like Harold to me but, somehow, sprung a
10 spark in Mr. Grynsztajn's memory, so he would be able to say
11 that's the guy I saw arguing with Harold. And one time I saw
12 him pay Harold money.

13 Throw it out. Harold was up there maybe arguing. I
14 don't know if Grynsztajn saw it or not. Throw out that
15 testimony. That's the testimony of David Grynsztajn as to
16 Harold Tischler.

17 So what I say to you is that, from this evidence, what
18 you should conclude is that Sam Salamon's a really strong
19 personality, and aggressive guy, a good talker, a fast liar,
20 who was driving a fancy car, holding himself out as a lawyer, a
21 powerhouse. Easy to manipulate a trusting guy who thought he
22 was his friend.

23 Harold Tischler, he is a plumber. Harold Tischler, he
24 is a carpenter; he builds things. He is not sophisticated.
25 For Harold and Sam to come together, was like the perfect

D210cob4

Summation - Greenfield

1 storm, really, if you think about it.

2 Here's a guy, Sam Salamon, he is a predator. He is
3 hungry. He there is no question that the money that he made
4 from every application excited him. He told you when he went
5 to Earl David's office for first time, he saw people sprawled
6 out all over the place. He decided maybe this is something I
7 could do. They were loaded up. They were piled up, waiting on
8 line. Reminded me of the old time cartoons when the wolve's
9 eyes pop out of his head when he sees somebody, you know. And
10 this predator happened to be introduced to the fatted calf.
11 Not only a guy whose got businesses and whose interested in
12 being, you know, giving people work, he has -- he is also a
13 sucker. He just -- it's just a perfect storm for Harold to end
14 up where he is.

15 Now, there was some talk over the fact that, well, in
16 2009 when he got served with a subpoena, personally, three
17 months later, when he got called he said, no, I'm not
18 sponsoring anybody anymore. I said he was trusting. I didn't
19 say he was crazy. Who wouldn't say, at that point, well, wait
20 a second here, hold on, what's going on. Three years before in
21 2006, he got a subpoena. If he -- he's not making -- you know,
22 he is not making that -- that kind of money, even according to
23 Sam Salamon, that he is going to risk his freedom, you know,
24 being on trial here, his whole world, for -- for \$300 every now
25 and then, or whatever.

D210cob4

Summation - Greenfield

1 In 2006 when he got the subpoena, if he knew something
2 was up, he could have stopped then. And Sam Salamon tells you
3 of course all you have to do is tell me, I'll stop, you know,
4 and I'll stop.

5 Well, I guess you have to also tell Sam Salamon,
6 listen, I would prefer if you didn't forge my name on a lease.
7 Because if you don't tell him that he is liable to do it, but
8 if you do tell him that, he won't do it or he'll stop doing it.
9 I mean it's ridiculous.

10 So now we come to the checks.

11 You know, there is a check for \$3,500 that Sam says
12 represents the \$5,000 that he gave Harold for his lawyer. That
13 check, according to the government's theory, which we heard
14 from Mr. Pastore this morning, was something that Sam went to
15 an awful lot of trouble to get. He had to steal it from Lipa
16 Teitelbaum in order to give it to Harold Tischler. Was that
17 the kind of guy that Sam Salamon strikes you as, that he is
18 going to steal money so he can give it to Harold Tischler?
19 Look on the back of that check. It's negotiated, not in any
20 bank associated with Harold Tischler. As a matter of fact it
21 negotiated on route something, I don't know. You look for
22 yourselves, look for the signature. That's not Harold
23 Tischler's signature. If you look at the -- so the other
24 checks are these Lipa Teitelbaum checks.

25 Now, when it suits the government, they will argue to

D210cob4

Summation - Greenfield

1 you that in order to pay one of the other defendants in this
2 case, Lipa Teitelbaum -- they had to generate cash. So they
3 would use the YM Pollack account and cash checks. Why is it
4 not reasonable to assume that they put Harold Tischler's name
5 on the check, too. Look at the back of those checks. None of
6 those checks, not one of them, is negotiated in any bank
7 associated with Harold Tischler. Not one of those checks has
8 the signature of Harold Tischler on it. The gentleman -- well,
9 let me say this. There are a lot of good reasons why you don't
10 want to be indicted, okay. But one of the big ones is you lose
11 your anonymity, you know. You're just walking around, you are
12 a guy on the street, nobody is looking how did you pay that
13 guy, did you -- did you file a W-2 form, or did you treat him
14 as a subcontractor when you paid him. You know, Mr. Altintas,
15 who had nothing at all to do with Harold Tischler, and he came
16 in and he testified that he worked for many years for a company
17 called Long Island Sanding. And he got paid on the payroll.
18 But at a certain point, he became a subcontractor. And I asked
19 him, because it occurred to me, I said, well, did you still get
20 payroll checks?

21 No. You know, they just made me as a subcontractor.
22 Without the withholding.

23 And I said but you were still getting the work from
24 Long Island Sanding?

25 And he said right.

D210cob4

Summation - Greenfield

1 Well, why is that okay and reasonable when it's a
2 government witness, but not okay and not reasonable when it's
3 Harold Tischler. Why can't he pay people that way. And what
4 does that have to do with whether or not he was involved,
5 intentionally, in a conspiracy to defraud the government?

6 THE COURT: Excuse me. Nine minutes.

7 MR. GREENFIELD: I think I only have about four.

8 THE COURT: Excellent.

9 MR. GREENFIELD: Many years ago, I heard a lawyer give
10 a lecture on closing arguments. And he was a very prominent
11 lawyer. And I was a young man. And he said that in every case
12 there are three closings; three closing arguments. There is
13 the one that you prepare the night before; there is the one
14 that you actually deliver to the jury; and then there is the
15 one that you sit down afterwards and think of what you should
16 said. That's the best one. That's by far the best one. I
17 don't get to do, that nobody does, okay.

18 Throughout the case, and now, I have tried to address
19 every point. If in doing so I misstated something, I didn't
20 intend, I'm not trying to fool you. You're the judges of the
21 facts. It's your recollection that counts. You have got the
22 evidence available. You look at it. As I said, this is my
23 last opportunity to speak to you directly in this case. The
24 prosecution has the burden of proof here. They got the first
25 summation, they are going to get the last summation. If they

D210cob4

Summation - Greenfield

1 say something to you make an argument to you about Harold
2 Tischler or respond to something I said, keep in mind I don't
3 have the right to answer. I can't stand up and respond. You
4 people have the right. You have the duty to respond for me.
5 You need to keep in mind that Harold Tischler is presumed
6 innocent. The burden of proof is on the government so if I
7 failed to anticipate an argument, that doesn't mean that there
8 is not an answer for it, and it doesn't mean that you shouldn't
9 consider what that answer might be.

10 So I know that, as to Harold, you can choose to apply
11 a theory that I would refer to as the theory -- a feeling, I
12 call it "jade sophistication." Everybody is a cynic now. You
13 know, I mean hindsight is 2020. It is so clear and easy to see
14 what was going on as we stand here in 2013. But was it so
15 clear to Harold Tischler then? The newspapers are full of it,
16 people are -- they call them confidence --

17 THE COURT: Careful.

18 MR. GREENFIELD: I'm not.

19 People get fooled, they get cheated, they get
20 deceived. When we read about it, or hear about it, or are told
21 about it, we say to ourselves, how could you be so stupid, how
22 could you be so naive. But it happens all of the time. It's
23 easy to see now. That doesn't mean that it was so easy to see
24 then.

25 So, you can see the glass as half empty, you can see

D210cob4

Summation - Greenfield

1 the glass as half full; you can give real meaning to what Judge
2 Buchwald will tell you the law is, the real meaning to the
3 presumption of innocence, or not. Your oath is to do so.

4 I look forward to your verdict, because if you think
5 this case through, if you consider the reality of human events
6 and what happened, you will return with a verdict of not guilty
7 for my client.

8 And thank you for your time and consideration.

9 (Continued on next page)

D21LCIB5

Summation - Mr. Brill

1 THE COURT: Okay, Mr. Brill.

2 MR. BRILL: Last one for today, probably.

3 I appreciate the statements of Mr. Donaldson,
4 Mr. Greenfield, in a different way, Mr. Pastore. Let me be
5 clear, it's not meant as a sign of disrespect, but the only
6 people I care about in this courtroom right now, aside from me,
7 are you, the jury, and Mr. Schwartz. I like and respect
8 everybody else in this courtroom; it's not the issue here. But
9 it needs to be clear, I'm sure, I know you've heard this
10 before -- I've heard everything you've heard -- that
11 Mr. Schwartz is on trial alone. It's more efficient, it may
12 make more sense in context to try people who are in a similar
13 case with similar facts together.

14 The fact of the matter is this is a trial only about
15 Nathan Schwartz when you consider the evidence, what there is,
16 against Nathan Schwartz. So if you take one of those great
17 pictures -- you can do it on your computer -- and you blur
18 everybody else out, and consider the evidence against Nathan
19 Schwartz by himself.

20 Let me tell you right now. I told you about Nathan
21 Schwartz's life in my opening statement. I told you he wasn't
22 guilty of the charges. That hasn't changed. He is guilty of
23 one thing: He's guilty of foolishness. He is guilty of being
24 a terrible, terrible, terrible judge of character. He's guilty
25 of being an easy mark. That's not a crime.

D21LCIB5

Summation - Mr. Brill

1 The way I look at the case you have three options,
2 three ways of looking at it. You can look at it as the
3 government would have you look at it that Mr. Schwartz knew
4 what was going on and was an active participant in what was
5 going on. If you don't believe that, the government will also
6 accept, as you'll be instructed in a concept called conscious
7 avoidance or willful blindness, that is, essentially, he chose
8 to ignore what was going on and, if he didn't choose to ignore
9 it, he would have been a part of it. Or you can choose to
10 believe as I believe, I believe the evidence has shown that he
11 did not know what was going on.

12 For No. 1, theory No. 1, he knew, you have to find
13 from all the evidence beyond a reasonable doubt Mr. Schwartz
14 guilty. There's no lower burden of proof for this willful
15 blindness, the conscious avoidance theory. You still have to
16 find beyond all reasonable doubt Mr. Schwartz guilty and, of
17 course, if you find out, if you find, excuse me, that he didn't
18 know, then he's not guilty obviously.

19 In terms of beyond a reasonable doubt, I am not the
20 instructor on the law. That's the judge's job. But let me
21 tell you that the way I think of it is that if a reasonable
22 alternative can lead you to believe that Mr. Schwartz was not
23 guilty, then you have to find him not guilty. You have to
24 eliminate all reasonable interpretations of the law that lead
25 you to not guilty before you can find him guilty.

D21LCIB5

Summation - Mr. Brill

1 So the government's theory, again, that he knew,
2 Mr. Pastore in his statement to you today, he laid out his
3 breadcrumbs, little breadcrumb here, little breadcrumb here,
4 and he tried to connect the dots. He tried to bake them into a
5 cake. Don't eat the cake. It doesn't taste very good.

6 Mr. Donaldson was great, grabbed all these. There's a
7 ton of paper here. There is a ton of paper here. There are
8 probably four trees that have been killed in this case. The
9 fact of the matter is that a ton of paper does not add up to
10 convincing evidence. It's evidence of something. We know it's
11 evidence of Earl David's fraud. We know it's evidence of Sam
12 Salamon's fraud. We know it's evidence of David Grynsztajn's
13 fraud. There is very little, if any, evidence that could even
14 lead you to think that Nathan Schwartz committed a fraud in all
15 of these dead trees. So it's the quality of the evidence, not
16 the quantity of the evidence that you have to think about.

17 So, Mr. Pastore at his very beginning pointed out the
18 blue labor certificates. They're not really blue, kind of
19 slightly blue. But he picked out in the beginning to show you
20 Exhibit 1209-5. So can we take a look at that for a second. I
21 don't know exactly why he picked this one out, but just looking
22 at the first page -- actually, the first page, Mr. Dinert,
23 please, thank you. There are plenty and we'll talk about it,
24 there are plenty of files that have a mailing address that's
25 actually connected to Nathan Schwartz.

D21LCIB5

Summation - Mr. Brill

1 This one has actually no connection to Nathan
2 Schwartz. This is a mailbox in Brooklyn. We asked a bunch of
3 witnesses what is this address, and no one has been able to
4 tell us what this address is and no one has been able to tell
5 us this is connected to Nathan Schwartz at all. But that's the
6 one he picked.

7 Can we look at the first application page.

8 So this is the address that we're familiar with is
9 Contour Framing, 46 Main Street, Suite 226, and we'll talk
10 about the number of employees in a couple minutes. But if you
11 look at the bottom of the page, looking here, Lipa Teitelbaum's
12 phone number. So why are we to believe that this application
13 or any of these applications were filled out by Nathan
14 Schwartz? We have no evidence. No one has ever said, yes,
15 Nathan Schwartz filled out one of these applications.

16 Even in the two that, as Mr. Pastore said, no one is
17 disagreeing there were two legitimate applications, Henry
18 Castillo and Jose Francisco Torres. Those were legitimate. No
19 one is saying Nathan Schwartz filled them out. They are
20 legitimate applications. This is what you go to a lawyer for.
21 Nathan Schwartz is not an immigration expert. He goes to his
22 friend who he thinks is a lawyer. There's no evidence that
23 Nathan Schwartz filled out any of these forms. There's no
24 evidence that he signed all but the two forms that he actually
25 legitimately signed.

D21LCIB5

Summation - Mr. Brill

1 You can take that down, please.

2 So as we said, Sam Salamon, the boy who cried wolf,
3 except in Sam Salamon's story, there's no wolf at the end. He
4 just keeps crying wolf and crying wolf and eventually -- how
5 many times must a person lie until they're not worthy of belief
6 anymore? Is it five times, is it ten times, is it 500 times?
7 We should keep going because I can guarantee you that Sam
8 Salamon's lies are way more than 500 times.

9 So at what point in your own life, think about it in
10 your own life. There has to be someone in your own life that
11 lied to you and lied to you and lied to you over and over
12 again. Do you still believe that person? Do you trust a
13 single thing that comes out of that person's mouth? You
14 wouldn't buy a car from Sam Salamon, why would you believe
15 evidence that he's trying to convict someone else?

16 Can we put up 3002-003, this just kind of got to me.
17 Can we highlight the very top portion. Actually from left to
18 right across the top of the page. Sam Salamon, I'm not sure if
19 Sam Salamon filled this out or not, but just kind of got to me
20 at the end of yesterday when the government ran out and brought
21 in this sheet from the Department of Labor that said there's an
22 employee named Sabrina Salamon and Sam Salamon doesn't sign his
23 name the same way Sabrina signs it. He says S-A-L-A-M-O-M with
24 that spelling. Well, I don't know if this is a mistake or if
25 this is how Sam Salamon told the cabinet guy this is how he

D21LCIB5

Summation - Mr. Brill

1 spelled his name twice, S-O-L-O-M-O-N. It's not really a big
2 point, just bothered me a little. We can take that down.
3 Thank you.

4 He was friends 30 years -- not the whole time, had
5 some problems. Friendships have problems -- but he was friends
6 for 30 years Nathan Schwartz. And if you don't think that gave
7 him access to Nathan Schwartz's home, gave him access to Nathan
8 Schwartz's business, gave him access to Nathan Schwartz's
9 family, he's in business for God's sake with his son-in-law and
10 his daughter, and if you don't think that gave him access to
11 Nathan Schwartz's trust, I don't know what you think.

12 He had Nathan Schwartz's phone number. They just put
13 up the screen shot. Can we put up 503-1. There it is. One of
14 those two, Nuchem and Nuchem two, that's the number that's all
15 across all of these labor applications. 845 and ends in 7455.
16 He had that phone number. He didn't have to get that from
17 Nathan.

18 He printed, if you recall -- you can take that down.
19 Thank you -- he printed, if you recall, the corporation
20 information off of internet. You can go to the New York State
21 Department of State's website and print all the corporation
22 information you need except for the tax ID number. So the only
23 issue in this case is did -- well, more issues in this case,
24 but the only issue with these corporate books and corporate
25 information is were the tax ID numbers provided by Nathan

D21LCIB5

Summation - Mr. Brill

1 Schwartz or did he get them somewhere else.

2 Well, Ms. -- I forgot her name, but the woman from the
3 Department of Labor going back to the very beginning, she said
4 we verify all the tax ID numbers except she didn't have any
5 records of it. She doesn't have any proof of it. And it seems
6 to me at least on one very specific example, one of these
7 companies was a DBA of another company yet they had different
8 tax ID numbers. DBAs don't have different tax ID numbers from
9 the original corporation. It's a company doing business in the
10 assumed name. They didn't check the records. They don't check
11 all the tax ID numbers.

12 And the fact is that Sam Salamon knew that and after,
13 God, 20 odd years of doing this fraud, Earl David clearly knew
14 this too. Earl David had been doing this, at least according
15 to Sam Salamon, when Sam Salamon got on board in 2001, he'd
16 been doing it for ten years at that point, since '91, at least,
17 because that's when Sam first signed these fraudulent
18 documents. They knew how to use this system. They knew how to
19 dodge and how to weave and how to avoid detection. They knew
20 how to change addresses, change emails, change tactics. That's
21 how they keep the fraud going because once the government
22 figures out one problem, they change and they do it a different
23 way and then they do it a different way. That's the easy
24 stuff.

25 You can make up a tax ID number. No one is checking

D21LCIB5

Summation - Mr. Brill

1 it. And why? This was ridiculous but it's true. The IRS is
2 not allowed to give information to the Department of Labor.
3 Two government agencies, who are not allowed to share
4 information. So the Department of Labor has to check with a
5 commercial database owned by Equifax or something like that.
6 But, again, we didn't have any of those records either that
7 those things were actually checked.

8 And the one piece of corporate information that you
9 saw came out of one of the files. It had, again, the sheet
10 printed off the internet. And then it had some of Sam
11 Salamon's scrawl on it and I mean scrawl because it looked like
12 he did it quick. I don't know if Sam Salamon, nobody knows if
13 Sam Salamon went into Mr. Schwartz's house or Mr. Schwartz's
14 office and took out the corporate books.

15 THE COURT: Just a second. There has to be some
16 evidentiary basis, not pure speculation.

17 MR. BRILL: What we do have is an exhibit that shows
18 Sam Salamon scrawling tax information on the bottom of that
19 page printed out from the internet.

20 So Mr. Salamon started off his life of crime as we
21 found out by defrauding some father by signing false
22 immigration applications on behalf of fake workers when he
23 worked with his father at the copy business. Lied that he was
24 a lawyer, either stole or hid money from his wife. In 2001, he
25 joined the law firm. And you wonder why the public perception

D21LCIB5

Summation - Mr. Brill

1 of lawyers is so wonderful. Law firm. Law firm that had
2 90 percent, at best, at least, let's say, of their business was
3 completely criminal. He went from selling copies one year to
4 making well over \$250,000 the next, \$250,000 that he derived
5 almost entirely from defrauding the United States government.

6 These people were making money hand over fist and they
7 didn't care where it came from. They didn't care how they got
8 it, the \$5,000 suits and the hundred thousand dollar Audi. It
9 was easy money. And by 2006, Sam Salamon had been doing this
10 for five years. And Earl David had been doing it for at least
11 15. And this was a beast at this point. This was a lifestyle
12 that not only did they have to support all of these people on
13 the board, but they had to support themselves. And it was easy
14 to just want more and more and more companies, more clients,
15 anything that they could do to feed the beast in any way that
16 they could.

17 So, looking at 1209-5, please. Go down to the
18 application page. Mr. Pastore again put this up on the board
19 and he then showed you Nathan Schwartz's taxes and he said
20 there's no way, no way that Contour Framing employed 17 people
21 because looking at his withholding, there's only one person on
22 his withholding.

23 First of all, Contour Framing, if you look at the tax
24 returns, just like all the other corporations in Mr. Schwartz's
25 name, were subchapter S corporations. Without getting too far

D21LCIB5

Summation - Mr. Brill

1 into subchapter S corporations.

2 THE COURT: There's no evidence about subchapter S.

3 MR. BRILL: I believe it says in the tax returns. I'm
4 not going to explain subchapter S.

5 THE COURT: Good.

6 MR. BRILL: The construction business, which is what
7 Mr. Schwartz was in, which is what everybody agrees
8 Mr. Schwartz was in, employed subcontractors. There may have
9 been one employee at some point and that one employee was
10 Mr. Schwartz. But the fact is that there very well could have
11 been 17 employees because those employees worked as
12 subcontractors, not employees in the classic sense. They
13 didn't have their taxes withheld because they're paid
14 differently than by a paycheck where taxes are withheld.

15 There's no reason to believe that saying there was 17
16 employees in this context is false in any way. Of course, the
17 government has not come forward and said there are no 1099s
18 attached to these forms, that those don't exist, that no one
19 got paid with a 1099.

20 So Mr. Salamon, working in a law firm -- can we put up
21 3060, please -- that looked like this. And created
22 retainers -- looking at 3103 in evidence, I have that right in
23 front of me here -- that looked like that. In a file, 3103,
24 and you can take a look at it if you want when you go back to
25 deliberate, with at least three different applications in it,

D21LCIB5

Summation - Mr. Brill

1 three different people's names in it. Mr. Salamon -- we can
2 take it down. Thank you.

3 Mr. Salamon says he paid Mr. Schwartz in cash, of
4 course. The government has provided you no records of any of
5 those payments. They provided no bank records from either
6 Mr. Salamon or this law firm, quote/unquote, that says, that
7 shows payments to Mr. Schwartz. They have shown no bank
8 records for Mr. Schwartz that shows received payments, safe
9 deposit box, no shoe box, pillow case -- Mr. Teitelbaum had a
10 pillow case. Nothing, nothing, nothing.

11 Mr. Salamon had his magical disappearing pad, the pad
12 that he claimed had all of the payments that he gave
13 Mr. Schwartz that he could neither produce here, he couldn't
14 produce for the government, and government agents couldn't find
15 when they executed a search warrant on his house.

16 Government hasn't provided any computer information
17 about those emails, that Mr. Schwartz received those emails,
18 or, in fact, that Mr. Salamon even sent them. And there's one
19 big issue with that Levy Kosher Garden Corporation email
20 because it doesn't show up in a sent email folder.

21 So the only one email that you could possibly think
22 Sam Salamon sent is one that says name is Lidia Chalen. And
23 the government tries to make this connection, they try to
24 connect the breadcrumbs but putting up Lidia Chalen's
25 application. There's no connection between Lidia Chalen's

D21LCIB5

Summation - Mr. Brill

1 application and Nathan Schwartz. There's nothing on Lidia
2 Chalen's application that has Nathan Schwartz's name or his
3 handwriting, anything from his computer.

4 What we know and what Mr. Salamon testified to is that
5 he met clients in Nathan Schwartz's office on occasion. For
6 all we know, Mr. Salamon could have been saying I left a file
7 in your office. Her name is Lidia Chalen. It's just as
8 reasonable an explanation as any other explanation.

9 Mr. Salamon says that Nathan Schwartz delivered labor
10 certifications to him and knew -- that's the important part,
11 not whether he delivered the labor certifications. The labor
12 certifications come in an envelope, as we've heard many times,
13 and all you can see -- again, if we can put up 1209-5, the
14 first page -- all you can see in the envelope, assuming this
15 one was one that went to an address that actually was connected
16 to Nathan Schwartz, is a white piece of paper. It doesn't say
17 you've been approved, yay. As the judge mentioned, you've been
18 accepted. It doesn't say that. It might be slightly thicker
19 or slightly thinner, but this is what an approval looks like,
20 this is what a denial looks like.

21 So on his first day of testimony, Mr. Salamon has to
22 come in and he testifies Mr. Schwartz gave me the envelopes.
23 He didn't say they were opened envelopes. But he comes back
24 the next day and, all of a sudden, the envelopes are open.
25 Why? Because he hadn't put the nail in the coffin as hard as

D21LCIB5

Summation - Mr. Brill

1 he wanted, so the next day the envelopes were open.

2 And there's no doubt, there's no doubt that
3 Mr. Schwartz did in fact deliver some of these envelopes. It's
4 not even an issue in this case. Mr. Schwartz had actual open
5 immigration cases. They were filed in 2006. These cases,
6 there's no average length of case, but we've seen from the
7 documents these cases can go on for a couple years.

8 Mr. Schwartz is bringing mail concerning his
9 immigration cases to his lawyer. His lawyer says to him, look,
10 if an envelope comes from the Department of Labor, bring it to
11 me and I'll take care of it. All right. We're having an
12 envelope from inside Government 3103, this is the envelope.
13 Bring it to me and I'll take care of it. It says U.S.
14 Department of Labor. What else does Mr. Schwartz need to know
15 other than something has come from the Department of Labor.
16 Sam will take care of it, I'll bring it to him. He trusts him.
17 He had no reason not to trust him.

18 Now, in my opening I mentioned to you that there were
19 two mailboxes that Mr. Schwartz had and it got a little
20 confusing from the trial because you heard testimony about a
21 bunch of other mailboxes. There were two mailboxes that
22 Mr. Schwartz had. One was at 46 Main Street in Monsey. One
23 was in Suffern, 214 Route 59 in Suffern.

24 Mr. Pastore comes up, excuse me, the government, not
25 Mr. Pastore specifically, comes up with two other addresses,

D21LCIB5

Summation - Mr. Brill

1 455 Route 306, Suite 119, and 455 Route 306, suite 129. This
2 is a mailbox company which as you saw was closed, out of
3 business. You heard from the witness that he has no records.
4 He destroyed all the records. The government has absolutely
5 nothing to connect Mr. Schwartz to these mailboxes on Route 306
6 except for a Citizen's bank statement.

7 The problem with the Citizen's bank statement is that
8 the mail that allegedly was sent to Mr. Schwartz, all the mail
9 that was mailed to him prior to February of 2010. The bank
10 statements are from February 2010 and onwards. There's nothing
11 to connect Mr. Schwartz to this mailbox or either mailbox prior
12 to February of 2010, which means there's nothing to connect
13 Mr. Schwartz to any of the mail that allegedly went to him at
14 455 Route 306, Suite 119 or Suite 129. But, coincidentally,
15 this place is literally right around the corner from
16 Mr. Salamon's house, as he testified to.

17 On the other hand, this other company that they're
18 trying to say Mr. Schwartz had some involvement in because his
19 phone number, the only thing about Mr. Schwartz with City Car
20 Van and Truck, the only thing that links any of these
21 applications to Mr. Schwartz is a phone number, again, filled
22 out by the law firm, not by Mr. Schwartz.

23 There's this guy Arnold Goldenberg. He shows up on
24 the phone calls, he shows up on the applications, there's mail.
25 And yet the government actually did nothing, according to Agent

D21LCIB5

Summation - Mr. Brill

1 Gordon, to find Arnold Goldenberg. They seem to have found
2 everybody else. Why not find Arnold Goldenberg? No
3 investigation whatsoever. Can we ask Mr. Goldenberg, hey,
4 Mr. Goldenberg, did you have that post office box in 2008? Did
5 you have that post office box in 2006? No. We just assume
6 that's Mr. Schwartz, right? Again, no post office records, no
7 post office records for forwarding from those boxes.

8 That form that you saw from Pearson Printing, there's
9 the other printing company on Main Street, there's a form that
10 gets filed with the post office, saw that form. They go to the
11 post office and say who filled out that form? When did they
12 fill out that form? We don't have that form.

13 So whatever percentage of this stuff goes to Nathan
14 Schwartz, cut it in half because none of the 455 Route 306 mail
15 has any connection to him whatsoever.

16 Now, same thing has to do with 214 Route 59. I'm not
17 saying he didn't receive mail there, but Agent Gordon testified
18 it's a restaurant and doesn't seem like a lot of effort was put
19 into figuring out what it was before a restaurant. But, look,
20 Nathan Schwartz had many careers, as you heard. He had many
21 ventures. No one said he owned a restaurant.

22 Another thing that got me a little raised up is that
23 as we're going through the phone records yesterday for
24 Mr. Schwartz, the 7455 number, the except for one phone call,
25 one phone call that they showed you the records of, that is the

D21LCIB5

Summation - Mr. Brill

1 single phone call that they say corresponds with -- can we put
2 up 101-30-A, please -- the phone call that they suggest
3 corresponds with this -- remember, there's no phone numbers on
4 these call logs. We don't know actually what number was
5 called, so there's a logical leap right there. We don't know
6 what time the phone calls were made because there's no time
7 stamp.

8 But let's just assume for the second that the
9 government is accurate and this is a message that went to
10 Nathan Schwartz, although it didn't, right, because there's
11 somebody named David who answered the phone. There's a flurry
12 of phone calls to numbers that belonged to Sam Salamon and Lipa
13 Teitelbaum, if you believe the records the government has
14 provided. Why does it have to be, hey, Sam, the government
15 called me. Can you call them and confirm this so I can get
16 paid?

17 Why can't it be, hey, Sam, why the hell is the
18 government calling me to ask me about something I have no idea
19 about? Call them and fix this so they don't bother me.
20 Wouldn't that be as many phone calls back and forth until, as
21 they tried to calm him down, oh, no, he found out, he figured
22 out what was going on. We need to call him down. The big
23 schmoozer, the big director, Sam Salamon. Flurry of phone
24 calls doesn't mean they're all putting their heads together to
25 figure out how to conspire. What the hell is going on Sam, why

D21LCIB5

Summation - Mr. Brill

1 are they calling me?

2 We can take it down.

3 And every other phone call, Sam Salamon is not only a
4 master criminal, according to the government, he's also
5 telepathic because every other phone record that they have is
6 either a check of the voice mail and an incoming call, an
7 incoming call from Sam Salamon, or a call from the Atlanta
8 service center and then an incoming call from Sam Salamon. So
9 there's no indication that Nathan Schwartz is getting a call
10 from the Atlanta service center, which lasts all of a minute
11 for the most part, or less, and calls Sam Salamon or Lipa
12 Teitelbaum in a panic. It's an incoming call from his friend
13 Sam Salamon, hey, Nathan, how are you, what are we doing
14 tonight? Hey, Nathan, what type of wine should I bring over
15 for Shabbos dinner?

16 You would expect if their theory was accurate that
17 Nathan would call Sam Salamon or Nathan would call Lipa
18 Teitelbaum, but that's not what's happening. It's an incoming
19 call, whether it's five minutes later or 20 minutes later or an
20 hour later. And if you look through the phone records, there
21 are incoming calls and outgoing calls to Sam Salamon all day
22 long because just like you do and like I do and everyone in
23 this courtroom does, people call their friends and their
24 friends call them all day long.

25 And we know why Sam Salamon was calling. Called when

D21LCIB5

Summation - Mr. Brill

1 he wanted his friend to go with him to chemo. Called when he
2 needed him to have a mouse in his house taken care of. That's
3 just two.

4 We have dozens, as you heard from Agent Gordon, dozens
5 if not hundreds of text messages they found connecting Nathan
6 Schwartz to Sam Salamon, but not a single one was put into
7 evidence because not a single one helps their case.

8 Nathan Schwartz did not know what was going on here.
9 Nathan Schwartz was a victim in this case. He was a victim of
10 identity theft. Sam Salamon had the means, the motive, and the
11 opportunity to take advantage of Mr. Schwartz. And it fits
12 perfectly with his character and with all of the facts in this
13 case. Feed the beast whatever we need to keep making money in
14 this ridiculous criminal enterprise that went on for two
15 decades.

16 Nathan Schwartz never benefited from this. As you
17 heard from Agent Gordon, his own worker got deported. The
18 person he sponsored got deported. The best lies, you know,
19 they're not whoppers. They're not this is made of cast iron,
20 because everybody knows it's not made of cast iron. The best
21 lies are the small lies, the lies that can have no way of being
22 verified or contradicted.

23 The best lies are the ones like Sam Salamon told.
24 Yeah, Nathan Schwartz was involved. Why would he say that
25 though, why would he do that? It's pretty obvious. As he told

D21LCIB5

Summation - Mr. Brill

1 you, he's facing 70 years in jail. The only way to get out of
2 that was to cooperate with the government, and the only way to
3 cooperate with the government was to serve other people up. He
4 had to deliver. And he is wholly and completely unworthy of
5 your belief.

6 And along with all the other evidence in this case
7 that I would suggest to you you look at all of it, as much of
8 it as you want, there is not enough there to convict Nathan
9 Schwartz of anything, not beyond a reasonable doubt, not in any
10 way. Thank you.

11 THE COURT: Thank you. Okay. We get off a little
12 early. Have a wonderful weekend. Still keep an open mind.
13 Still don't talk about the case. And for those of you who like
14 football, enjoy the Superbowl.

15 (Jury not present)

16 THE COURT: Okay. Anything we need to talk about?

17 MR. GREENFIELD: I still have three minutes to go.

18 THE COURT: You can say to me anything that you're not
19 allowed to say to them. How is that.

20 We're going to give you the draft verdict form. It's
21 nothing very creative, but maybe you'll be more creative.
22 Don't be too creative.

23 MR. DONALDSON: My first suggestion is always to put
24 not guilty first. I think it's appropriate to have not guilty
25 and then guilty. I always say that.

D2ALCIB5

1 THE COURT: And no one listens to you?

2 MR. DONALDSON: No.

3 THE COURT: I don't want to change.

4 You're free unless you need me.

5 MS. ECHENBERG: No.

6 (Adjourned to February 4, 2013, at 9 a.m.)

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